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12
 13 **UNITED STATES DISTRICT COURT**
 14 **DISTRICT OF NEVADA**

15 SECURITIES AND EXCHANGE
 16 COMMISSION,
 17 Plaintiff,

18 v.

19 MATTHEW WADE BEASLEY; BEASLEY
 20 LAW GROUP PC; JEFFREY J. JUDD;
 21 CHRISOPHER R. HUMPHRIES; J&J
 22 CONSULTING SERVICES, INC., an Alaska
 23 Corporation; J&J CONSULTING SERVICES,
 24 INC., a Nevada Corporation; J AND J
 25 PURCHASING LLC; SHANE M. JAGER;
 26 JASON M. JONGEWARD; DENNY
 27 SEYBERT; ROLAND TANNER; LARRY
 28 JEFFERY; JASON A. JENNE; SETH
 JOHNSON; CHRISTPHER M. MADSEN;
 RICHARD R. MADSEN; MARK A.
 MURPHY; CAMERON ROHNER; AND
 WARREN ROSEGREEN;
 Defendants,

THE JUDD IRREVOCABLE TRUST; PAJ
 CONSULTING INC; BJ HOLDINGS LLC;
 STIRLING CONSULTING, L.L.C.; CJ
 INVESTMENTS, LLC; JL2 INVESTMENTS,
 LLC; ROCKING HORSE PROPERTIES, LLC;
 TRIPLE THREAT BASKETBALL, LLC;
 ACAC LLC; ANTHONY MICHAEL
 ALBERTO, JR.; and MONTY CREW LLC;
 Relief Defendants.

Case No.: 2:22-cv-00612-CDS-EJY

**MARK A. MURPHY'S LIMITED
 OPPOSITION TO PLAINTIFF'S
 MOTION AND MEMORANDUM OF
 POINTS AND AUTHORITIES IN
 SUPPORT OF MOTION TO AMEND
 PRELIMINARY INJUNCTION
 ORDER (Doc. 119) AND
 PLAINTIFF'S MOTION AND
 MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 MOTION TO AMEND
 RECEIVERSHIP ORDER TO
 INCLUDE NEWLY ADDED
 DEFENDANTS (Doc. 120)**

ORAL ARGUMENT REQUESTED

I.

INTRODUCTION

Defendant, Mark A. Murphy (“Murphy”), files this limited opposition to the SEC’s Motion to Amend Receivership Order to Include Newly Added Defendants (“Motion”) to identify certain blanket characterizations of Defendants as inapplicable to Murphy. Murphy was not ever a “promotor,” who engaged in “fraud, and is currently attempting to “dissipate assets.” In actuality, Murphy’s actions have supported and furthered the goal of pursuing the wrongdoers in this action.

In fact, Murphy has no issue with the existing Orders as they relate to the injunction over assets derived from the Ponzi scheme. He does not oppose the Receiver’s control of said assets. During a July 25, 2022 hearing, Murphy supported the placement of a receivership, as opposed to bankruptcy, as Murphy believes a receivership provides a better opportunity for recovery.

However, Murphy disputes the SEC’s representation to this Court that the injunction and the receivership terms should be extended to him because there is no *prima facie* showing that his assets were acquired as a result of the Ponzi scheme. The Plaintiff has not identified what it asserts are ill gotten gains even though Murphy provided his unredacted financial records to the SEC and Receiver, including documents related to his personal finances, his business entities’ finances, investor information, texts and emails pertaining to the Defendants, and items that were in his possession in his capacity as an accountant who prepared taxes for the J&J Entities. No specific transactions have been or can be identified as being paid by J&J, Judd or Beasley to Murphy.

Moreover, at the time of the initial hearing, counsel for the parties believed that this issue could be resolved without the necessity of a hearing.¹ Murphy and the SEC have currently

¹See Exhibit A, Hearing Transcript, pp. 12-13, 36-37, attached hereto and incorporated herein by this reference.

1 entered into a stipulation for reporting and Murphy has no issue with the same continuing while
2 these matters are further addressed in detail thereby alleviating the need for the injunction and
3 receivership order to apply to him.

4 **II.**

5 **FACTUAL BACKGROUND**

6 **A. Murphy has Fully Cooperated with the SEC's Fact Finding Efforts.**

7
8 Thus far, Murphy has willingly provided the SEC with his personal and business
9 financials from the period of time prior to his investing in J&J to after its closure. Additionally,
10 as the tax preparer for J&J and Judd, he was also able to provide the Receiver and the SEC with
11 financials for them as well. Murphy also provided information related to investors for whom he
12 provided accounting services.²

13 Moreover, on October 7, 2022, counsel for Murphy indicated he had “provided what I
14 believe to be all of the financials and then some in raw form and in summary and QuickBooks
15 formats. If there's something else you are looking for, do you need the same information but in
16 another format to review, or is this [the need for a stipulated response date] primarily because
17 this case has been so active on so many fronts that you just need more time?” (Emphasis added.)
18 In response, the SEC stated it was continuing to review the information provided and [would]
19 be in touch if more documents are necessary.³

20 Similarly, on September 15, 2022, Murphy provided correspondence to the Receiver's
21 counsel confirming the documents provided and the attorney's fees information provided was
22 everything needed and if not, to contact the undersigned.⁴ Subsequent to this correspondence,
23 Ms. Hendricks and Murphy's counsel, Marc Cook, had a discussion at which time it was

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25 ²See Exhibit B, emails sent to the SEC dated Aug. 2, 2022, Aug. 10, 2022, & Aug. 26, 2022,
attached hereto and incorporated herein by this reference.

26 ³See Exhibit C, October 7, 2022 email exchange, attached hereto and incorporated herein as
though fully set forth.

27 ⁴See Exhibit D, September 15, 2022 email, attached hereto and incorporated herein as though
28 fully set forth.

1 confirmed the Receiver did not need any additional documents from Murphy.⁵

2 As such, Murphy believes he has provided everything in his possession which could
3 assist the Receiver and the SEC.

4 As to Murphy, no specific transactions have been identified as Ponzi scheme related
5 payments or promoter activities. The reports provided thus far do not suggest any luxury or
6 even improper expenses from March 2022 through today. To the extent that any such
7 transactions are alleged and identified in the future, Murphy seeks the opportunity to address
8 each one as a case-by-case basis. However, in the interim, Murphy has agreed to provide
9 monthly accounting reports.

10 **A. Murphy was paid for Licensed Professional Services, not Promotor**
11 **Activities.**

12 Murphy did not receive commissions or front end payments from Beasley, Judd or any
13 of the J&J Entities (or any of the other identified Defendants). Murphy would stipulate to
14 turning those funds over, if any existed. However, Murphy is in a unique and distinct position
15 as it relates to the other Defendants in this case.⁶ Murphy is a licensed CPA. He provides
16 accounting and professional financial services for multiple clients. Murphy's CPA license, his
17 business license, and his business practices have been in place long before J&J was formed. He
18 has been a Nevada licensed CPA since 1995. He has used his Beyond Bean Counting moniker
19 for multiple years.

20 In fact, Murphy initiated his action and sought the appointment of a receiver to pursue
21 J&J in March 2022. Therein, Murphy provided an affidavit discussing the extent of his
22 relationship with J&J:

23 1. I am the Plaintiff in the in the above-named case (named individually
24 and as the managing member of Mark A Murphy, Ltd.).

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27 ⁵See Exhibit E, Affidavit of Marc P. Cook, attached hereto and incorporated herein as though
fully set forth.

28 ⁶Murphy takes no position as to any other Defendants' factual arguments.

1 2. I met Defendant Jeffrey Judd (“Judd”) in or around 2002. Judd was a
2 mortgage loan officer at that time. Judd was also involved in other
3 businesses and my company, Mark A Murphy, Ltd., did the taxes for those
4 businesses.

5 3. In 2017, Judd told me that he and Matthew Beasley (“Beasley”), an
6 attorney, had started a company together where they would provide
7 financial assistance to people who were suffering from various types of
8 injuries in which an attorney was working toward obtaining monetary
9 settlements from insurance companies.

10 4. Judd and Beasley told me that investors in their company provide funds
11 that would go to these personal injury clients that gave them quicker
12 access to money than having to wait for their case to reach conclusion.
13 The personal injury clients would pay interest on the money and the
14 investors would receive a quick return profit on each investment they
15 made. The Defendants initially provided contracts under J&J Consulting
16 Services, Inc. beginning in 2017, and they represented that the investments
17 were legal and sound. I thought the business model presented and the idea
18 appeared legitimate and meritorious.

19 5. I made an investment as an individual beginning with \$100,000.00 and
20 received my first return on my investment in December 2017. After that, I
21 received checks every three months without any problem. Over all, I
22 invested a total of \$700,000.00, all with the same results.

23 6. In 2018, others began to ask if they could invest as well. I formed a
24 company called American Colocation Services, Inc., and used that
25 company to segregate funds that were be invested from those others who
26 wanted to invest. My family, friends and clients began investing in
27 \$100,000.00 increments. There were no issues or problems with their
28 investment returns during that time.

7. During this time, I had multiple telephone conversations with Judd
wherein the soundness and legality of the investments was represented to
me by him. He also represented the same to new investors. These
discussions preceded investments from the investment schedules.

8. Based on the return on investments and the promises made of
continued returns of 7.5 - 13% in 90 days, the investors reinvested their
original principal into new contracts. Money was wired into the Beasley
Trust Fund or wherever Beasley instructed.

9. January 1, 2022, J and J Purchasing, LLC was represented to be a
Florida company and I was provided a copy of the confidential private

1 placement memorandum supposedly prepared by a Dallas, Texas law firm.
2 This, along with other business paperwork we were provided with, was
3 intended to demonstrate that the investments solicited by Defendants were
4 sound legal investments.

5 10. Judd formed J and J Purchasing as part of doing an SEC Reg. D filing
6 which was represented to take effect January 2022.

7 11. On March 2, 2022, I received a telephone call from Judd. He told me
8 the FBI had been to his house to question him about the investment
9 business. Judd said that his home had been raided and that his assets
10 frozen based on the FBI's allegations of a Ponzi scheme. He also told me
11 that the FBI had been to Beasley's home and that Beasley had been
12 injured. Judd also told me that this was not a Ponzi scheme, the
13 investments were solid, and the business was legal.

14 12. In total, from 2017 when the investments began until March 2022,
15 there have been more than 163 investors. I am aware of investments
16 totaling more than \$16,000,000.00 in contracts. Some of those contracts
17 have just one investor and others have several.⁷

18 As outlined in the Murphy Affidavit, he invested substantially in J&J. Similarly, so did
19 multiple Murphy clients. Notably, Murphy took no fees from J&J. The money J&J paid
20 relative to Murphy's clients went to a separate company for the clients' benefit. Murphy's
21 business entity charged for his accounting/bookkeeping services and charged the clients for
22 those services in a manner similar to what he did for other accounting clients. Documents
23 regarding those services were turned over to the Receiver and SEC.⁸ Moreover, in the course of
24 his business providing those services, his employees were paid in relation to the services they
25 performed for the accounting work. There is no dispute that Murphy supervised this
26 accounting/bookkeeping work individually and through his entity employees. Services were
27 rendered and billed as part of his normal practice.

28 ⁷See Exhibit F, Affidavit of Mark A. Murphy, (footnotes and exhibits omitted) attached hereto
and incorporated herein as though fully set forth.

⁸Murphy would be happy to provide any relevant copies to the Court if necessary. However,
Murphy has provided thousands of pages in unredacted format to the Receiver and the SEC and
does not believe the production or content to be in dispute.

1 As a caveat, Murphy's entity prepared tax returns for Judd and several of Judd's entities
2 even before J&J existed. He also provided those documents to the SEC and the Receiver and
3 before the SEC litigation began. He was paid directly from Judd and J&J for the tax
4 preparation. The history of these billings from 2011 forward has been provided to the SEC.

5 **B. Murphy Provided Services to J&J in the Normal Course of his**
6 **Business.**

7 Murphy has been tainted and named as a defendant in this case merely because his entity
8 prepared tax returns for J&J and Judd. However, as the returns provided to the SEC and
9 Receiver indicate, J&J was making money. In fact, prior to Murphy being named a Defendant
10 in this case, counsel for Murphy had telephonic discussions with the Receiver and the
11 Receiver's counsel that an avenue of recovery would likely be to amend these returns as based
12 on the new findings that began through the FBI's investigation, this was not income as it was a
13 Ponzi scheme. However, the suggestion that because Murphy was the accountant and therefore
14 should have known this was a Ponzi scheme is in conflict with the documents he was provided
15 and the tax returns he filed.⁹

16 Murphy was not an agent or employee of J&J. Murphy's entity billed J&J for his tax
17 services as it would bill any other client, *i.e.*, through invoice.¹⁰

18 Murphy's entity also had clients who invested in J&J and who received what they
19 believed to be legitimate returns. Funds were received by a separate entity so Murphy's
20 entities' clients and Murphy's entities' employees could track the money and provide the
21 services. The process is typical and common of standard accounting services for which
22 investment clients would expect to be billed.

24
25 ⁹This statement has been repeated to the bankruptcy court and to this Court by former counsel
26 for Judd. Judd's former counsel's efforts to blame everybody but Judd and make these
27 disparaging suggestions about Murphy creates the false impression that is belied by the tax
28 return documents themselves.

¹⁰See Exhibit G, the most recent Invoice, attached hereto and incorporated herein as though fully
set forth, as an example of the invoices related to the tax returns.

1 Murphy is a third party, independent accountant who retained employees he oversaw
2 through entities to provide licensed professional services. Additionally, he was a victim in this
3 Ponzi scheme. The fact that Murphy ultimately had multiple clients invested in this scheme is
4 explained in the Complaint he filed against J&J, Beasley and Judd and the Affidavit referenced
5 above.

6 **C. Murphy Pursues J&J on Behalf of All Investors.**

7 Plaintiff filed a Complaint when the Ponzi scheme was uncovered. That action seeks
8 damages for not only Murphy's losses, but those of the other victims through the placement of a
9 receiver. As indicated in the *Murphy v. Judd, Beasley & J&J* State Court Amended Complaint:
10

11 Plaintiffs are pursuing this litigation for lost funds in a purported Ponzi
12 scheme to which Plaintiff provided funds and was victimized and to which
13 Plaintiff is aware of a multitude of other victims. In this action, Plaintiff
14 requests a constructive trust over all funds of all victims for the purpose of
15 a pro rata distribution to each victim and, in an effort to provide the
16 necessary funds to make all the victims whole, not just moving Plaintiffs
17 through the creation of a Receivership as pled hereinbelow.¹¹

18 Plaintiff's Amended Complaint continues as follows:

19 19. Plaintiff met Judd in or around 2002. At that time Judd was a
20 mortgage loan officer.

21 20. Over the next few years, Judd was involved in different businesses and
22 Plaintiff's company did the tax returns for those entities.

23 21. During 2017, Judd said that he had an attorney, Matthew Beasley of
24 the Beasley Law Group, who had started a company. The function of the
25 company was to provide financial assistance to parties suffering from
26 various types of injuries in which an attorney was seeking monetary
27 settlements from insurance companies.

28 22. Judd and M. Beasley represented that they were conducting a business
wherein individuals would provide funds related to providing personal
injury clients with quicker access to funds to which they would pay

¹¹See Exhibit H, Murphy's Complaint from the Eighth Judicial District Court and Exhibit I, Murphy's Amended Complaint from the Eighth Judicial District Court, attached hereto and incorporated herein by this reference. (Emphasis added.)

1 interest and the individual would receive a short return profit on each loan.
2 Defendants and each of them represented that this process was legal and
3 sound. Defendants provided contracts for the individuals, initially under
4 J&J Consulting Services, to Plaintiff beginning in 2017.

5 23. The idea and the business model presented appeared legitimate and
6 meritorious.

7 24. During 2018, clients of Murphy asked if they could also invest.
8 American Colocation Services, LLC, a company properly formed by
9 Murphy individually, was used to segregate funds to be invested from
10 those other sources.

11 25. Murphy individually invested in the company with a beginning
12 amount of \$100,000.00.

13 26. Murphy received his first check in December 2017. Thereafter,
14 Murphy received checks every three months timely and without issues or
15 problems.

16 27. Over time, Murphy invested \$700,000.00 with the same results.

17 28. Plaintiffs began investing with Defendants and each of them beginning
18 in 2017 through March 2022 in Nevada and had invested significant sums
19 by 2022.

20 29. Plaintiffs' investments increased and gradually, with continued returns
21 on investments from 2017 through March 3, 2022, began assisting clients
22 in placing these investments with Defendants and each of them.

23 30. From 2017 through March 3, 2022, Plaintiffs, by and through Mark
24 Murphy, had multiple conversations with Jeffrey Judd wherein the
25 soundness and legality of these investments was represented by Judd.
26 These representations continued relative to new individuals wherein Judd
27 would personally represent to these new lenders and to Murphy the
28 soundness, legality and fluidity of this continued enterprise.

31. These discussions preceded funding from the individuals and took
place telephonically in Las Vegas, Nevada.

32. Based on the return on these funds and representations of continued
returns, the individuals left their original principle to be used in new
contracts after the initial 90 days.

33. Plaintiff and other victims Plaintiff was aware were led to believe that

1 this process would continue paying and therefore, based on the
2 representation of the legality and continued funds, agreed to continue the
3 process.

4 34. The returns were as represented from 2017 through March 2022.

5 35. Plaintiffs and other victims wired money to the Beasley trust fund or
6 as otherwise directed by M. Beasley and Judd.

7 36. Plaintiffs and other victims were promised a return of 7.5 - 13% in 90
8 days.

9 37. Plaintiffs and each of them reasonably relied on the representations by
10 each and every Defendant throughout this process including at the time of
11 each loan.

12 38. Beginning in January 1, 2022, these same services were to be provided
13 through J and J Purchasing which was represented to be a Florida
14 company.

15 39. In representing the legality of the same, Defendants and each of them
16 provided a copy of a confidential private placement memorandum
17 purportedly prepared by a law firm in Dallas, Texas. This documentation
18 included operating agreements, disclosures, and what appeared to all be
19 appropriate business paperwork to demonstrate the sound legal
20 investments to which Defendants and each of them were soliciting.

21 40. Judd formed J and J Purchasing as part of doing an SEC Reg. D filing
22 which was represented to take effect January 2022.

23 41. On March 2, 2022, Murphy received a phone call from Judd. Judd
24 said that the FBI had been to his home to question him about this business.
25 Judd also told Murphy that the FBI had been to M. Beasley's home and M.
26 Beasley had been injured. Judd had advised that his home was raided by
27 the FBI and his assets were frozen or taken based on the FBI's allegations
28 of a Ponzi Scheme. Even in this conversation, Judd represented that it was
not a Ponzi Scheme, the investments were solid, the business was legal,
and if allowed to continue, the profit distributions would continue as well.

Naturally, and unfortunately, multiple friends and clients of Murphy that saw how well
he was doing, ultimately invested and became victims.

D. The State Court Receiver and Murphy Seek to Assist the SEC.

1 Judge Johnson appointed Daniel Ayala, Esq. (“Ayala”) as Receiver in this matter.¹²
2 Ayala retained Beth Axelrod Esq. to handle Bankruptcy case matters and Maria Gall, (now
3 Judge Gall), (“Gall”) as counsel for the Receiver. The Receivership appointment was paid for
4 by Murphy. This State Court case was ultimately stayed by this SEC action. However,
5 information that was acquired therein was voluntarily provided to the SEC. Specifically,
6 Receiver’s counsel, Ms. Gall, and the Receiver were in contact with the SEC in order to
7 coordinate joint pursuit of a remedy. In furtherance of this goal, Murphy’s counsel was also in
8 direct contact with the SEC.

9 In early March 2022, counsel for Murphy was in contact with Jodi Ostler and Laurie
10 Abbott of the SEC to provide information and schedule a discussion with Murphy and speak
11 about providing pleadings, emails and other information as it became available.¹³ Additionally,
12 Gall had communications with the potential new receiver about the potential for consolidation
13 of the Receivers’ efforts. Then, when Gall was appointed to the bench and was replaced by
14 Greenberg Traurig as Receiver’s counsel, counsel for Murphy reached out to Ms. Hendricks and
15 the Receiver to discuss providing documents, set meetings and exchange information. On what
16 is believed to have been the second or third of these discussions, while on the phone call, Ms.
17 Hendricks received notice of the filing of the Amended Complaint and advised Murphy’s
18 counsel of the same at that time. Notwithstanding this rather surprising and drastic change of
19 posture by virtue of the Amended Complaint shockingly including Murphy, the parties
20 continued to discuss and continued to exchange information and documents.

21 Murphy’s cooperation with the SEC is summarized in a July 15, 2022 letter to the SEC
22 and details his willingness to assist in the pursuit of the wrongdoers.¹⁴ The letter explains
23 Murphy’s interactions with the Ponzi scheme, not as an active participant but as an arm’s length
24

25 ¹²See Exhibit J, Receivership Order, attached hereto and incorporated herein by this reference.

26 ¹³See Exhibit K, March 2022 Emails, attached hereto and incorporated herein as though fully set
27 forth.

28 ¹⁴See Exhibit L, Letter dated July 15, 2022, attached hereto and incorporated herein as though
fully set forth.

1 actor:

2 It is important to distinguish Mr. Murphy's action as it related to the Ponzi
3 scheme. First, Mr. Murphy was not an employee or independent
4 contractor for Beasley, Judd, or any of the other J&J Entities. Mark A.
5 Murphy, Ltd. (his accounting company) prepared tax returns for Judd and
6 J&J only. No other accounting services were performed. Moreover, no
7 services of any kind were ever provided to Beasley. In fact, in the course
8 of providing these services for J&J prior to the time in which this Ponzi
9 scheme evolved and then through the beginning of the time of J&J
10 business, Mr. Murphy noticed a significant increase in Mr. Judd's income.
11 This led to discussions that resulted in Judd pitching Murphy on the Ponzi
12 scheme. Murphy invested his own money in the scheme obviously not
13 knowing it was a Ponzi scheme.

14 Over a period of time when family members, friends and
15 eventually even clients asked about his investments and he answered the
16 questions honestly and some sought to invest. Mr. Murphy, believing this
17 was a good investment for friends, family and clients based on the
18 payments he was receiving, responded to those questions about his
19 investments and ultimately a number of these people ended up investing
20 with J&J.

21 Mr. Murphy did not receive any commissions for these
22 investments of third parties. However, as the amount of bookkeeping
23 work for friends and clients grew, as he is an accountant, beginning in
24 approximately October of 2018 he ultimately set up a system to do the
25 bookkeeping and tracking of these investments through American
26 Colocation Services and Black Rock Business Services. Murphy charged
27 for those services. However, he did not receive compensation from J& J
28 for those services, he charged for the bookkeeping that there is no dispute
he performed. J&J and/or Beasley would pay the clients but deposit the
funds into the entity, Murphy and his staff would do the bookkeeping for
his clients that invested with J&J and distribute the proceeds to the
appropriate client. Thus, Mr. Murphy would do the bookkeeping work
and charge his clients on the back end for his bookkeeping services.
However, Mr. Murphy did not receive any money from J&J on these
investments beyond the additional payout, *i.e.*, he was not receiving a
commission, bonus, etc. The manner in which this occurred is discussed
in more detail in the Complaint we filed against Beasley, Judd and J&J, et
al. on March 16, 2022 and thereafter amended on March 31, 2022 (see
Exhibits A and B and incorporated herein as though fully set forth).

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III.

ARGUMENT

A. Murphy's Limited Opposition is Consistent with Prior Rulings.

As discussed in the Introduction, this Opposition is limited and does not seek reconsideration of any of the Court's prior rulings. However, any attempt to place Murphy in the same classification as other defendants and represent to the Court that Murphy is a wrongdoer, fraudulent actor, or promoter who controls millions of dollars of real estate and personal property at risk of dissipation is inaccurate.¹⁵ Murphy is a licensed accountant with a long career providing professional accounting and bookkeeping services for clients. There is no dispute he provided those services and his income disclosures show significant assets and income earned before the existence of the subject Ponzi scheme. The fact that he did not work for any Defendant, individual or entity other than as a tax preparer to which he invoiced and billed as a separate and independent business, all demonstrate that he was not a promoter for the company, did not receive funds directly from any Defendant. His income was directly related to the licensed services he provided.

Murphy does not dispute that a court may freeze "ill-gotten funds" to a party that "does not have a legitimate claim to those funds," see *Smith v. SEC*, 653 F.3d 121, 128 (2d Cir. 2011), as cited multiple times by the SEC in other motions in this case. However, this authority is of no moment as to Murphy as he received payment for services he actually performed from individuals who ultimately and unfortunately became victims of this scheme. However, as the funds were received from individuals who received partial payments, but not profits, those funds are not typically frozen from the victim investor. See *Eby v. Ashley*, 1 F.2d 971 (4th Cir. 1924), *cert. denied*, 266 U.S. 631, 45 S.Ct. 197, 69 L.Ed. 478 (1925) (holding that investors who purchased securities contracts gave value for subsequent Ponzi scheme payments, and

¹⁵Murphy has no information as to the veracity or lack thereof as to any allegation of any named Defendant other than the Defendants Murphy pursued in the State Court Action.

1 trustee could recover profits only, rather than returned principal); *In re Independent Clearing*
2 *House Co.*, 77 B.R. 843 (D.Utah 1987) (holding that investors who purchased fictitious
3 accounts receivable contracts gave value, and trustee could not recover subsequent Ponzi
4 scheme payments). *Rafoth v. Bailey (In re Baker & Getty Financial Services, Inc.)*, 88 B.R.
5 792, 795-96 (Bankr.N.D.Ohio 1988) refused to allow a bankruptcy trustee to recover
6 repayments of principal to investors in a Ponzi scheme. The court simply stated, “[s]uch
7 transfers satisfied the Debtors’ obligation to repay the principal.” *Id.* at 796. It did not analyze
8 whether the nature of the debtor’s obligation originated in contract or restitution.

9 In the case *sub judice*, these funds are even one step further removed as they are returned
10 principle to an “investor” whom paid a legitimate business for a legitimate service. This
11 undisputed service provides the legitimate claim to said funds.

12 In reviewing some of the prior contests to the injunction and receivership limitations,
13 some parties have argued that while they were promoters they were essentially managing
14 money for these investors.¹⁶ However, Murphy is distinguishable as he is a CPA who, through
15 legally formed entities, retained employees in continuation with the practice and business of
16 performing these services. Murphy’s entities performed these services for multiple other clients
17 that had nothing to do with J&J both before and after the existence of J&J. Further, Murphy has
18 provided all of his business documents demonstrating the same and voluntarily turned over
19 documents demonstrating he had sufficient and significant assets prior to the time he provided
20 services for clients of J&J.

21 Thus, excluding Murphy from this injunction and attachment is not inconsistent with
22 any of this Court’s prior rulings. Moreover, to the extent that any specific transaction is being
23 contested, Murphy requests identification of the same in order to have the opportunity to
24 address any issue or concern. Otherwise, his legitimately earned and previously owned assets
25

26
27 ¹⁶Murphy takes no position as to the veracity or the legitimacy of those positions and has no
28 standing nor foundational information to opine.

1 are subject to prejudgment attachment without cause.

2 This Court noted during the July 25, 2022 hearing that the government does not “intend
3 to freeze or to seize or any active action against monies or funds or income not associated with
4 the scheme itself.”¹⁷ It is Murphy’s contention that this stated intent would be subverted here
5 because income Murphy received for legitimate services provided is not associated with the
6 scheme and should not be seized. In the interim and through the pendency of this action until
7 the Murphy claims are resolved, Murphy has no objection to the continued reporting as included
8 in the Stipulation filed October 11, 2022.

9 **B. Prior Rulings and Legal Authority Supports Murphy’s Position.**

10 This Court’s September 27, 2022 Order (Doc. #318) (as well as previous orders), allows the
11 Court wide discretion. Murphy should be excluded from the current injunction and attachment.
12 The cooperating Murphy (1) has provided documents to the Receiver freely and voluntarily; (2)
13 provided information as to other investors in this Ponzi scheme so that they may be brought up
14 to speed and have an opportunity to participate and collect; (3) has provided the tax return
15 information regarding J&J and Judd to assist the Receiver and SEC with regard to amending tax
16 returns and trace assets; (4) provided information and access to other assets; (5) retained a
17 Receiver in the State Court action; (6) provided significant information as to assets of J&J,
18 Beasley and Judd, including airplanes and homes; and (7) provided significant information
19 demonstrating his licensed and authorized work as an accountant to provide
20 accounting/bookkeeping services in the ordinary course of duty through arms-length
21 transactions through individuals who invested in this Ponzi scheme through the exercise of his
22 legitimate accounting business.
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26 The Court’s discretion should not stretch to attach income earned by Murphy via his
27

28 ¹⁷See Exhibit A, p. 30, ll. 15-21.

1 accounting services business, nor to his assets which were not derived through payments of
2 proceeds through Ponzi schemes.

3
4 Such a ruling under these circumstances would be consistent with other courts in this
5 jurisdiction such as wherein Judge Dorsey in *McNamara v. Voltage Pay, Inc.*, 217 WL 3709057
6 (D.Nev. 2017) analyzed a receivership seeking to receive funds from a company who provided
7 legal business services for the same even though that company's services were paid for by funds
8 that the FTC had determined were fraudulent.

9
10 There, judge advised that "Voltage was a 'middle man' between the [entity committing
11 the fraud] and some third party companies that processed payments, that Voltage 'worked with'
12 third parties to arrange for payment processing, and that Voltage received 'fees, fines, and other
13 amounts' of at least \$700,000.00 for doing what it did. What the Complaint does not say, is
14 what Voltage did to earn those fees." *McNamara*, p.1, footnotes omitted). In the case *sub*
15 *judice*, the SEC's allegations appear to be that Murphy was the middle man between the
16 Receiver entities and third party investors in which he processed payments, provided
17 professional accounting services through his entity employees, and his entity was paid for those
18 service. These actions are strikingly similar to the actions in *Voltage*. In *Voltage*, Judge Dorsey
19 analyzed an effort to acquire compensation from Voltage for their legitimate business acts as
20 follows:
21

22
23 The only plausible reading of the Complaint's facts is that the receiver
24 entities paid Voltage in arms-length transactions for its payment-
25 processing services. There are no allegations plausibly suggesting that
26 the payor intended anything else. The Receiver argues that it is enough
27 to allege that the scoundrel directors of the Receiver Entities committed
28 fraud and uses Voltage's services as part of that fraud, but not so. The
Receiver does not cite any on-point authority, and the relevant case law
cuts against position. Courts regularly refuse to claw back money from
innocent third parties involved in fraudulent schemes. Even in the

1 context of Ponzi schemes where investors overtly profit from fraud, the
2 payments to the investors are not necessarily fraudulent transfers. (Page
3 2)

4 In the case *sub judice*, the only plausible reading of Murphy's conduct is that through his
5 entity and under his license he and his immediate entity employees provided accounting
6 services for individuals who had invested with the Defendants through arms-length transactions
7 for payment for services. There are no allegations suggesting that anyone intended anything
8 else but to pay for his services. There is similarly no dispute that he provided those services. In
9 fact, Judge Dorsey rather colorfully analogized seeking fees from Voltage for monies received
10 in an arms-length transaction that it performed suggesting that "[t]his would be like treating a
11 burglar's purchase of a crowbar as a fraudulent transfer merely because he later used the tool to
12 carry out a crime. There are no allegations plausibly suggesting that the payment of fees to
13 Voltage was a sham or otherwise fraudulent transfer of funds." *Id.* at 1.

14
15 Similarly, Judge Navarro in *McNamara v. Intercept Corp.*, 2020 WL 1531375 (D.Nev.
16 2020) in citing to SEC related cases and receivership's authority relied on *Knauer v. Johnathan*
17 *Roberts Financial Group, Inc.*, 38 F.3d 230 (7th Cir. 2003) distinguishing the receiver in a Ponzi
18 scheme that brought claims against an entity who is a licensed security representative, was paid
19 for its services actually performed and did not benefit from the Ponzi scheme, noting that "had
20 the broker dealers been directly involved in the embezzlement, or attained some tangible benefit
21 from them, this would be a different case." Instead, the court dismissed multiple claims
22 asserted by McNamara as Receiver on behalf of the Ponzi scheme operating entities. See
23 *McNamara v. Intercept*, pp. 8-9.

24 Further, the limitations to pursuing Murphy are clear. A Defendant may be held liable,
25 and have funds attached, under Section 5 of the 1933 Act if he is "directly responsible" for the
26
27
28

1 distribution of unregistered securities. *SEC v. Murphy*, 626 F.2d 633, 649 (9th Cir. 1980).
2 Liability for violations of Section 5 extends to those who have “engaged in steps necessary to
3 the distribution of [unregistered] security issues.” See *SEC v. Chinese Consol. Benev. Ass’n,*
4 *Inc.*, 120 F.2d 738, 741 (2d Cir. 1941); see also *SEC v. Murphy*, 626 F.2d 633, 650-51 (9th Cir.
5 1980). This standard, which applies to both SEC enforcement actions and actions for damages
6 under Section 12 of the 1933 Act, requires that the defendant’s conduct be both necessary to,
7 and a substantial factor in, the unlawful transaction. *Id.* at 650-52; *Anderson v. Aurotek*, 774
8 F.2d 927, 930 (9th Cir. 1985) (per curiam); see also *SEC v Holschuh*, 694 F.2d 130, 140 n.14 (7th
9 Cir. 1982) (necessary and substantial participation required for liability in SEC enforcement
10 actions).

11
12
13 The third party accountant, licensed and active in its trade, paying employees and
14 certified in the field providing the same business services it provides to other businesses is not
15 a “necessary participant” or a “substantial factor” nor were funds acquired for anything other
16 than licensed legal services rather than the unlawful issuance of unregistered securities solely by
17 virtue of performing its duties to the seemingly lawful directions of its clients. Courts
18 uniformly have found that the actions of a party in complying with the directives of its client
19 can be ministerial and clerical in nature. See, *e.g.*, in relation to transfer agents; *Rochez Bros.,*
20 *Inc. v. Rhoades*, 527 F.2d 880, 888 (C.A.Pa. 1975) “The fact that MS&R may have performed
21 as a transfer agent is not significant as this was purely a ministerial act”; *J&G Investments, LLC*
22 *v. Fineline Properties, Inc.*, Slip Copy, 2007 WL 928642 (N.D. Ohio 2007).
23
24

25 Murphy’s actions here did not involve direct payment from Judd, Beasley or any J&J
26 entity ever (but for payment for performing tax preparation services). Murphy’s accounting
27 entity employed multiple people tasked with providing licensed business and accounting
28

1 services which they performed. The investors were directly charged for their services. These
2 were not fees from any J&J company or principle.¹⁸

3
4 Similarly, the SEC itself even places limits on what they may recover as a result of a
5 Ponzi scheme. Specifically, the investor website, after clicking on “Ponzi Scheme” then
6 clicking on “How Victims of Securities Laws Violations May Recover Money” advise that “the
7 court or the SEC might order a wrong doer to disgorge (give up) the ill-gotten gains resulting
8 from the illegal conduct.”¹⁹ It was not illegal, nor even a civil licensing violation for Murphy to
9 charge clients for performing accounting/business bookkeeping services as that is exactly what
10 the company is licensed to perform. Thus, the funds received from investors for services that
11 were performed were not “gains resulting from the illegal conduct.” In fact, the SEC bears the
12 ultimate burden of persuading the Court that its disgorgement amount reasonably approximates
13 the amount of unjust enrichment. *SEC v. Platforms Wireless Int’l, Corp.*, 617 F.3d 1072, 1096
14
15

16
17 ¹⁸While some of Black Rock Business Services, LLC’s documents are poorly worded in
18 describing an investor’s investment with J&J, the substance does generically outline the J&J
19 investment. More important, the services provided for the same were professional accounting
20 and business bookkeeping services. Further, as the Ninth Circuit outlined in *Schaar v.*
21 *Immigration and Naturalization Service*, 141 F.3d 95 (9th Cir. 1998), courts may go beyond the
22 literal meaning of words to avoid an absurd result. See *Schaar*, dissent at 960 citing in fn. 3: *In*
23 *re Trans Alaska Pipeline Rate Cases*, 436 U.S. 631, 643, 98 S.Ct. 2053, 2061, 56 L.Ed.2d 591
24 (1978) (courts may go beyond literal meaning to avoid absurd result); *Tang v. Reno*, 77 F.3d
25 1194, 1196-97 (9th Cir. 1996); see, e.g., *Astaire v. Best Film & Video Corp.*, 116 F.3d 1297,
26 1301 (9th Cir. 1997) (interpreting exemption of “films” and “television programs” to include
27 videotapes, as result would otherwise be absurd). The absurdity sanctioned by the majority’s
28 reading falls into the second category described in *Heppner v. Alyeska Pipeline Serv. Co.*, 665
F.2d 868, 872 (9th Cir. 1981), which “a court may correct by interpretation.” This “occurs . . .
when Congress uses more sweeping language than it would if it were attending carefully to fact
situations, outside the scope of its purpose, to which the language might be erroneously
understood to apply.” *Id.* *Schaar v. Immigration and Naturalization Services*, 141 F.3d 953 (9th
Cir. 1998).

¹⁹See Exhibit M, Investor.gov SEC Website Article, p. 1, attached hereto and incorporated
herein as though fully set forth.

1 (9th Cir. 2010). However, Murphy is not unjustly enriched as he undoubtedly performed the
2 accounting services he billed for. Thus, no injunction or transfer of assets to the Receivership is
3 proper as to Murphy under these circumstances.
4

5 If the SEC or Receiver at some later date suggests that certain specific funds were
6 improperly acquired through some unlicensed or illegitimate practice, Murphy would like the
7 opportunity to address those as they come up in turn. Additionally, even if the Court were to
8 ignore the fact that Murphy is conducting a legitimate business in providing services in line
9 with transactions to clients, a disgorgement of all fees would be wholly improper.
10

11 To require disgorgement of all fees and commissions without permitting a reduction for
12 associate expenses and costs constitutes a penalty assessment and goes beyond the restitutionary
13 purpose of the disgorgement doctrine. Therefore, transaction costs such as brokerage
14 commissions incurred by BLI in executing trades in Itek securities should be deducted from any
15 fees and commissions disgorged as profit. *Cf. Hermann v. Steinberg*, 812 F.2d 63, 66 (2d Cir/
16 1987) (incidental transaction expenses incurred in purchasing stock are deductible from
17 defendant's disgorgement of short-swing profits under Section 16(b)); *Oloff v. Exchange Int'l*
18 *Corp.*, 669 F.2d 1162, 1168 (7th Cir. 1980), cert. denied, 450 U.S. 915, 101 S.Ct. 158, 67
19 L.Ed.2d 340 (1981) (direct transaction expenses such as brokerage commissions are deductible
20 from defendant's disgorgement of short-swing profits under Section 16(b)).
21
22

23 **C. Legal Fees Earned.**

24 While Plaintiff's Motions do not specifically identify attorney's fees, Murphy would like
25 to address the distinctions in this issue as to Murphy from the previously addressed fee related
26 orders as it relates to the injunction and Receivership Order. First, Murphy provided financial
27 information of his income and assets prior to October 2018 (when friends began investing in the
28

1 J&J Entities and Murphy's entity began providing accounting/professional services for them).
2 There are significant assets that by far exceed the attorney's fees incurred in this case.

3 Additionally, as was discussed hereinabove, Murphy filed his own action for recovery of
4 these funds in State Court. The vast bulk of fees expended in that case has been spent pursuing
5 the recovery from J&J as identified in the State Court Complaint seeking all recovery to be
6 distributed pro rata to all investors. Moreover, these fees included payments to the Receiver
7 and investigator to pursue assets (which information was ultimately turned over to the current
8 Receiver) as well as significant costs in gathering, securing and copying documents to provide
9 to the SEC and Receiver.

10 Moreover, the discussions with the SEC and Receiver began before Murphy was added
11 late as a Defendant in the Amended Complaint. Further, even after being named in the
12 Amended Complaint, the parties entered into a stipulation on the record verbally into the
13 transcript record, pp. 13, 36-37, and 72-73 on July 25, 2022 for an open extension and a
14 stipulation and order clarifying this agreement and modifying the previously filed order was
15 filed on August 11, 2022 (Doc. #253). Thus far, ninety plus percent of the time spent and billed
16 by Cook & Kelesis was related to the pursuit of the J&J Ponzi scheme, assisting the SEC and
17 assisting the Receiver. In fact, other than a couple of brief phone calls where time was spent
18 discussing issues related to the defense of Murphy and a request to have funds to forward to
19 SEC counsel to defend this matter, even subsequent to being named in the Complaint, the
20 attorney's fees were spent in time providing documents to assist the SEC and the Receiver,
21 costs in copying documents and paying staff to scan documents to then deliver to the SEC
22 through the multiple emails attached hereinabove.

23 Specifically, it was not until the October 12, 2022 (Doc. #329) stipulation setting forth
24 the due dates for the opposition that any of the attorney's fees expended were for the specific
25 purpose of defending the claims against Murphy. Moreover, when the SEC's system was
26 overrun with the amount of documents being provided, Murphy's counsel and counsel's staff
27 spent an extensive amount of time, money and expense providing alternative ways to get these
28

1 documents to the SEC for review.

2 Additionally, counsel for Murphy, Marc Cook, discussed the issue of fees immediately
3 with the Receiver's counsel Kara Hendricks in what was initially collateral discussions
4 regarding other attorney's issues related to fees. Ms. Hendricks represented that she didn't have
5 any interest in acquiring already earned fees at that time but would defer to the SEC. This was
6 in light of the distinct factual situation that arose regarding Murphy as well as representations of
7 his pre-October 2018 income which were then later confirmed and provided.

8 As for the SEC, these same discussions were held and at no time did the counsel for the
9 SEC suggest that there would be any issue with regard to already earned funds, but had
10 concerns as to counsel's representation as to funds that would be forwarded to retain Mr.
11 Sanders to come in as specialized SEC counsel. Specifically, even after providing the financial
12 information to the SEC, Mr. Fronk stated he believed \$100,000.00 of the fees in trust could be
13 forwarded to Sanders for purposes of retention but he had to follow up with some additional
14 people to confirm the same. This conversation was then confirmed in the email of October 6,
15 2022. Specifically, on October 6, 2022, counsel for Murphy emailed with regard to the
16 stipulated time to respond and the efforts to resolve the matter as follows:

17 My only concern as to the response date is getting James Sanders
18 involved. My recollections from our last conversation was that your
19 review of this pre-October 2018 financials and his non-J&J accounting
20 financials was that we were okay to send James the \$100k retainer he
21 requires. However, I recall you wanted to talk to someone on your end
22 first to confirm. Can I get Sanders involved now or are you still waiting
23 on that conversation?

24 Mr. Fronk's response was "[w]e can't take a position on the transfer of money to James
25 Sanders at this time. My suggestion would be that we stipulate to the response date and
26 continue to discuss that issue."²⁰ In response, counsel for Murphy advised as to the retention of
27 Sanders:

28 _____

²⁰See Exhibit C, (emphasis added).

1 Casey,

2 First, I would ask for another week to respond in the stipulation because,
3 first, I will lose almost a week as I have to take my wife to UCLA Medical
4 Center late the week of the 16th. Second, this will give us more time to
5 address any issues with retaining Mr. Sanders. As to that issue, we
6 provided what I believe to be all of the financials and then some in raw
7 form and in summary and quickbooks formats. Is there something else
8 you are looking for, do you need the same information but in another
9 format to review, or is this primarily because this case has been so active
10 on so many fronts that you just need more time?

11 I would emphasis that Mr. Murphy had income from his accounting
12 business separate from J & J, did not receive direct money form J & J, and
13 had significant assets before J & J came around. Moreover, unlike the
14 other defendants, we disclosed this information to you fully. While I do
15 not think we have to answer to other defendants on our arrangements, the
16 fact is that Mark's position is very different in the details that count. Mark
17 is a licensed accountant who provided similar services to other clients long
18 before J & J, pursued J & J and Judd/Beasley, cooperated with the SEC in
19 March (before the SEC ever filed against anyone) by providing
20 documents, information and availability), cooperated with the Receiver
21 and Receiver's counsel before Counsel was even appointed arranging for
22 documents the Receiver believed would be helpful, discussing strategies
23 for more avenues of recovery and answering questions as posed. Murphy
24 has expended time and money pursuing the same interests as the Receiver
25 and SEC even before the SEC. We have been financially transparent and
26 responsive. Moreover, much of this cooperation and assistance was done
27 well before Mark was added as a defendant in the last amendment. As I
28 discussed with you previously, this addition was very surprising to us and
we believe was based in part as a response to the meritless accusations and
noise by Judd's former counsel. This noise was as inaccurate as the other
statements you addressed in response to his many motions and
oppositions. Finally, Mark is looking towards resolution for himself and
recovery for all the victims.

Thus, if the other defendants try and suggest different treatment, there is
simply no apples to apples comparisons.

Please let me know.
Marc

In response to the same, Mr. Fronk advised that information was being reviewed "and will be in touch on the retention of Mr. Sanders." (Emphasis added.)

1 the Defendants including the later amended Defendants in this action.

2 DATED this 2nd day of November, 2022.

3 COOK & KELESIS, LTD.

4
5
6 By: 

7 GEORGE P. KELESIS, ESQ.
8 Nevada Bar No. 000069
9 MARC P. COOK, ESQ.
10 Nevada Bar No. 004574
11 517 S. Ninth Street
12 Las Vegas, Nevada 89101
13 *Attorneys for Mark A. Murphy*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this 2nd day of November, 2022, I caused to be served a true and correct copy of the foregoing **MARK A. MURPHY'S LIMITED OPPOSITION TO PLAINTIFF'S MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO AMEND PRELIMINARY INJUNCTION ORDER (Doc. 119) AND PLAINTIFF'S MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO AMEND RECEIVERSHIP ORDER TO INCLUDE NEWLY ADDED DEFENDANTS (Doc. 120)** by the method indicated below:

- BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date pursuant to LR ic 4-1. A printed transmission record is attached to the file copy of this document(s).
- BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

- BY HAND DELIVERY:** at Las Vegas, Nevada addressed as set forth below.
- BY EMAIL:** by emailing a PDF of the document(s) listed above to the email address(es) of the individual(s) listed below.
- BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- BY ELECTRONIC SUBMISSION:** submitted to the Eighth Judicial District Court, for electronic filing in accordance with FRCP 5(b), NEFCR Administrative Order 14-2 and NEFCR 9(e) and service upon the Court's Service List for the above-referenced case.


An employee of COOK & KELESIS, LTD.

Securities & Exchange Commission v. Matthew Wade Beasley, et al.**Case No. 2:22-cv-00612-CDS-EJY**

Index of Defendant, Mark A. Murphy's Exhibits to Limited Opposition to SEC's Motion to Amend Preliminary Injunction (Doc. 119) and Motion to Amend Receivership Order (Doc. 120)

EXHIBIT	EXHIBIT DESCRIPTION
A	Hearing Transcript
B	Emails sent to the SEC dated Aug. 2, 2022, Aug. 10, 2022 & Aug. 26, 2022
C	October 7, 2022 Email Exchange
D	September 15, 2022 Email Exchange
E	Affidavit of Marc P. Cook, Esq.
F	Affidavit of Mark A. Murphy
G	Invoice
H	Murphy's State Court Complaint
I	Murphy's State Amended Complaint
J	Order Appointing Receiver
K	March 2022 Emails
L	July 15, 2022 Letter
M	Investor.gov Website Article

EXHIBIT A
(Transcript of Hearing)

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE)
COMMISSION,) Case No. 2:22-cv-00612-CDS-EJY

Plaintiff,)

vs.)

) Monday, July 25, 2022
) 10:14 a.m. - 12:35 p.m.
) Courtroom 6B

MATTHEW WADE BEASLEY; BEASLEY)
LAW GROUP, P.C.; JEFFREY J.)
JUDD; CHRISTOPHER R.)
HUMPHRIES; J&J CONSULTING)
SERVICES, INC., an Alaska)
Corporation; J&J CONSULTING)
SERVICES, INC., a Nevada)
Corporation; J AND J)
PURCHASING, LLC; SHANE M.)
JAGER; JASON M. JONGEWARD;)
DENNY SEYBERT; and ROLAND)
TANNER,)

) Motions Hearing

) **C E R T I F I E D C O P Y**

Defendants,)

THE JUDD IRREVOCABLE TRUST;)
PAJ CONSULTING, INC; BJ)
HOLDINGS, LLC; STIRLING)
CONSULTING, LLC; CJ)
INVESTMENTS, LLC; JL2)
INVESTMENTS, LLC; ROCKING)
HORSE PROPERTIES, LLC; TRIPLE)
THREAT BASKETBALL, LLC; ACAC,)
LLC; ANTHONY MICHAEL ALBERTO,)
JR.; and MONTY CREW, LLC,)

Relief Defendants.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE CRISTINA D. SILVA,
UNITED STATES DISTRICT JUDGE

COURT REPORTER: Samantha N. McNett, RPR, CRR, CCR, CSR

Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

2:22-cv-00612-CDS-EJY

1 oppositions thereto.

2 So Government counsel, when you're ready.

3 MR. FRONK: Thank you, your Honor. This is Casey
4 Fronk on behalf of the Securities and Exchange Commission.

5 So your Honor, two housekeeping matters before I
6 address the substance.

7 THE COURT: Sure.

8 MR. FRONK: The first is I've been in contact with
9 counsel for Chris Madsen who originally filed an opposition to
10 the motion and we've come to an agreement on a stipulated
11 consent order that would address the motion as to him.

12 THE COURT: All right.

13 MR. FRONK: I have a copy here signed. Unfortunately,
14 the printer messed it up a little bit so if I can -- I can hand
15 this over to you now, but I can actually send you a better
16 version of this.

17 THE COURT: That's fine.

18 Actually, it probably should be filed. So I'll take a
19 look at it -- if you don't mind, I'll look at that now, but if
20 you could file it, that way we have it docketed, I would
21 appreciate it. Thank you.

22 MR. FRONK: The second housekeeping matter, your
23 Honor, is Mark Murphy was not served until, by our accounts,
24 July 11th with this motion. So he would have until the end of
25 the day today to file an opposition. I've been in contact with

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1 counsel for Mr. Murphy and we think that we can probably
2 resolve this with a consent order as to him as well, but we
3 would like to have a continuance of the motion as to Mr. Murphy
4 so that we can see if we can resolve that.

5 THE COURT: All right. And if the matter is not
6 resolved, is that something that would require a secondary
7 hearing or is that something that the Court can decide on the
8 papers?

9 MR. FRONK: I -- it's our position that the Court
10 could decide that on the papers, but Mr. Murphy's counsel may
11 have a different opinion as to that. I'll give him the chance
12 to speak if he has a different opinion.

13 THE COURT: Understood. All right. So we'll come
14 back to that.

15 MR. FRONK: So then, your Honor, as far as the
16 substance of the motion, so this is a motion to essentially
17 extend the same relief that Judge Mahan ordered as to the
18 original defendants to the new defendants that we added to the
19 amended complaint.

20 In support of our motion, we've submitted a
21 declaration from our investigative attorney along with a lot of
22 documentation that she select collected and we collected in our
23 investigation. We've also submitted a declaration from our
24 accountant, Asha [phonetic] Salimi, with some of the materials
25 that he looked at, as well.

—2:22-cv-00612-CDS-EJY—

1 THE COURT: All right. So then before I sign this
2 consent order, I'm going to order that a copy of this be sent
3 to counsel of record, and should there be a dispute about the
4 consent order, that would be -- that would need to be addressed
5 before I signed it.

6 So I will ask that -- this isn't a very long consent
7 order so it shouldn't take too long for counsel of record to
8 review this consent order. I would ask that a status report be
9 filed -- joint status report by the Government and counsel of
10 record for Mr. Madsen, or if new counsel is going to appear,
11 that new counsel provide the status of that consent. If
12 there's any objection to it, that would need to be addressed by
13 Thursday. So that will be by 12:00, noon on July 28, 2022.

14 Anything else, Mr. Hill?

15 MR. HILL: No. Thank you, your Honor. That's
16 acceptable. Thank you very much.

17 THE COURT: All right. Thank you very much.

18 All right. Then let's see. Let's hear from counsel
19 for -- I already heard from Mr. Madsen.

20 Mr. Murphy, I understand, has to the end of today.

21 Counsel for Mr. Murphy, anything you would like to
22 note or argue here on the record today?

23 MR. COOK: Good morning, your Honor. Marc Cook for
24 Mr. Murphy.

25 As Mr. Fronk said, we're confident we can work

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1 something out on it.

2 The comment I think that happened was would we have
3 oral argument or not. In the event we can't come to an
4 agreement, I'd at least like the option to include in my
5 opposition a request for oral argument and put it up to the
6 Court as to whether you want that to be heard.

7 THE COURT: Sure. That's -- you're welcome to do that
8 and we'll go from there.

9 MR. COOK: And my understanding is I'm not going to be
10 filing an opposition today; we're going to try to work it out.
11 So with that, we're going to probably try to work out a new
12 date. So we're moving quickly on that.

13 THE COURT: Correct.

14 Well, certainly, it sounds like you're working
15 together so if there's a need to extend that, that would be no
16 opposition to the Court.

17 MR. COOK: Perfect. Thank you, your Honor.

18 THE COURT: Thank you very much.

19 All right. And I know we also already addressed
20 proposed defendant Rohner.

21 So let's turn to proposed defendant Rosegreen.

22 Any argument or opposition from anyone representing
23 Mr. Rosegreen?

24 MR. MANINGO: Good morning, your Honor. Lance
25 Maningo. I represent Mr. Rosegreen as well as Triple Threat

EXHIBIT B
(Emails to SEC)



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SEC vs. Matthew Beasley - Case No. 22-cv-00612



sfagin@bckltd.com

Aug 02, 2022, 5:44 PM

combst@sec.gov, fronkc@sec.gov, ostlerj@sec.gov

4 attachments -Expires : Sep 2, 2022

Message body secured

Good Afternoon,

Please find the attached documents pursuant to your discussion with Mr. Cook. Should you have any questions, or need any assistance regarding the documents, please do not hesitate to contact me.

Sincerely,

Shannon J. Fagin, Paralegal
to Marc P. Cook, Esq.
COOK & KELESIS, LTD.
517 S. Ninth Street
Las Vegas, Nevada 89101
Direct: (702) 979-7169
Email: sfagin@bckltd.com

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SEC vs. Matthew Beasley - Case No. 22-cv-00612



sfagin@bckltd.com

Aug 10, 2022, 11:04 AM

combst@sec.gov, fronkc@sec.gov, ostlerj@sec.gov

2 attachments -Expires : Sep 9, 2022

Message body secured

Good Morning,

Attached please find additional documents pursuant to your discussion with Mr. Cook. Should you have any questions or need any assistance with the documents, please do not hesitate to contact me. Copies of the same are being sent to counsel for the Receiver (Kara Hendricks, Esq.) and the Receiver (Geoff Winkler) himself via separate email with secure encrypted link.

Sincerely,

Shannon J. Fagin, Paralegal
to Marc P. Cook, Esq.
COOK & KELESIS, LTD.
517 S. Ninth Street
Las Vegas, Nevada 89101
Direct: (702) 979-7169
Email: sfagin@bckltd.com

File attachments expire: Sep 9, 2022

Download

Send file

<input type="checkbox"/>	Name	Size	Digital Fingerprint
<input type="checkbox"/>	INVESTOR LIST DETAIL.pdf	178.1 KB	e454f53236467a1b57f7f49f62765a
<input type="checkbox"/>	INVESTOR LIST SUMMARY.pdf	115.6 KB	758d92d1171bde3c874c06bb4f105

8/26/22, 4:13 PM

SEC vs. Matthew Beasley, et al. - Case No. 2:22-cv-00612.pdf

SEC vs. Matthew Beasley, et al. - Case No. 2:22-cv-00612



sfagin@bckltd.com

Aug 26, 2022, 4:13 PM

To: combst@sec.gov fronkc@sec.gov ostlerj@sec.gov

16 attachments - Expire: 1664175599000

Message body secured





Good Afternoon,

Attached please find additional documents pursuant to your previous discussions with Mr. Cook. Should you have any questions or need any assistance with the documents, please do not hesitate to contact me. Copies of the same are being sent to counsl for the Receiver (Kara Hendricks, Esq.) and the Receiver (Geoff Winkler) himself via separate email with secure encrypted link.

Sincerely,












Shannon J. Fagin, Paralegal
to Marc P. Cook, Esq.
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517 S. Ninth Street
Las Vegas, Nevada 89101
Direct: (702) 979-7169
Email: sfagin@bckltd.com

File attachments expire: Sep 25, 2022

Name	Size	Digital Fingerprint
 HH - Bank of America Receipts.pdf	957.4 KB	5e462099c054b85fc7f95a09d62c325fmd5
 LL - American Colocation Services LLC - Balance Sheets 2018 - 2022.pdf	7.2 MB	2e2dc0592975a62eeb188db4ece99154md5
 OO - American Colocation Services LLC - General Ledger 2018.pdf	22.6 MB	18742a3555dd8c4f52f2bec18a7e76ecmd5
 MM - American Colocation Services LLC - Account QuickReports 2018 - 2022.pdf	35.1 MB	682337846ad4619b60eb5fe9857898famd5
 NN - American Colocation Services LLC - Reconciliation Detail 2018 - 2022 BofA 0232.pdf	61.3 MB	c2c87df8c936c23170447ca92096003bmd5

8/26/22, 4:13 PM

SEC vs. Matthew Beasley, et al. - Case No. 2:22-cv-00612.pdf

Name	Size	Digital Fingerprint
 II - Fidelity Investments - Account Statements 2017 - 2018 & 2022.pdf	68.1 MB	6e47f78f6dcde9bbed80f97c890f82f3md5
 PP - American Colocation Services LLC - General Ledger 2019.pdf	37.8 MB	71fadf1442b6360fa45b8de6cb41b4dcmd5
 SS - American Colocation Services LLC - Vendor QuickReport 2018 - 2022.pdf	3.6 MB	07ef285df3c6127065a0e9e0203cea38md5
 RR - American Colocation Services LLC - Reconciliation Detail 2018 - 2022 BofA 3702.pdf	13.3 MB	a719edd067888e4a2abd5f23f6f170a5md5
 QQ - American Colocation Services LLC - General Ledger 2020.pdf	45.8 MB	7ae14e65d08026a0c0cc50a582664d38md5
 VV - American Colocation Services LLC - Profit & Loss 2018 - 2022.pdf	1.2 MB	a1685cbd979ca2e8f10c3cf6836b17abmd5
 UU - American Colocation Services LLC - General Ledger 2022.pdf	22.9 MB	c2bdafad9b148eadf77976aeb23c46f3md5
 JJ - Bank of America - Account Statements 2017.pdf	66.6 MB	265ce02262b0456f4dabc29d843f17d5md5
 TT - American Colocation Services LLC - General Ledger 2021.pdf	63.9 MB	7931ca26255cc691f99c65d9ffea1d32md5
 KK - Bank of America - Account Statements 2018.pdf	74.2 MB	26ddd46991298874a415cdad050a82c5md5
 Index - Second Document Disclosure.pdf	214.7 KB	4c0e48ff973dd0aea608ad6999415eb3md5

8/26/22, 4:13 PM

SEC vs. Matthew Beasley, et al. - Case No. 2:22-cv-00612.pdf

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Message body secured






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 MM - American Colocation Services LLC - Account QuickReports 2018 - 2022.pdf	35.1 MB	682337846ad4619b60eb5fe9857898famd5
 NN - American Colocation Services LLC - Reconciliation Detail 2018 - 2022 BofA 0232.pdf	61.3 MB	c2c87df8c936c23170447ca92096003bmd5

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 RR - American Colocation Services LLC - Reconciliation Detail 2018 - 2022 BofA 3702.pdf	13.3 MB	a719edd067888e4a2abd5f23f6f170a5md5
 QQ - American Colocation Services LLC - General Ledger 2020.pdf	45.8 MB	7ae14e65d08026a0c0cc50a582664d38md5
 VV - American Colocation Services LLC - Profit & Loss 2018 - 2022.pdf	1.2 MB	a1685cbd979ca2e8f10c3cf6836b17abmd5
 UU - American Colocation Services LLC - General Ledger 2022.pdf	22.9 MB	c2bdafad9b148eadf77976aeb23c46f3md5
 JJ - Bank of America - Account Statements 2017.pdf	66.6 MB	265ce02262b0456f4dabc29d843f17d5md5
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 KK - Bank of America - Account Statements 2018.pdf	74.2 MB	26ddd46991298874a415cdad050a82c5md5
 Index - Second Document Disclosure.pdf	214.7 KB	4c0e48ff973dd0aea608ad6999415eb3md5

EXHIBIT C
(October 7, 2022 Email Exchange)

Marc Cook

From: Marc Cook
Sent: Friday, October 7, 2022 1:27 PM
To: 'Fronk, Casey'
Subject: RE: SEC v. Beasley

Casey,

Please consider this email as authorization to e-sign the stipulation attached to your 10/7 1:20pm email on my behalf. Have a great weekend.

Thank you,

Marc

From: Fronk, Casey <FronkC@SEC.GOV>
Sent: Friday, October 7, 2022 1:20 PM
To: Marc Cook <MCook@bckltd.com>
Subject: RE: SEC v. Beasley

Marc,

One more week on the response is fine. I've attached an updated stipulation – let me know if you are ok with this and whether we have your permission to file with your signature (if so, we will likely file on Monday).

We are continuing to review the information you've provided, and will be in touch on the retention of Mr. Sanders.

-Casey

From: Marc Cook <MCook@bckltd.com>
Sent: Friday, October 7, 2022 11:37 AM
To: Fronk, Casey <FronkC@SEC.GOV>
Subject: RE: SEC v. Beasley

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Casey,

First, I would ask for another week to respond in the stipulation because, first, I will lose almost a week as I have to take my wife to UCLA Medical Center late the week of the 16th. Second, this will give us more time to address any issues with retaining Mr. Sanders. As to that issue, we provided what I believe to be all of the financials and then some in raw form and in summary and quickbooks formats. Is there something else you are looking for, do you need the same information but in another format to review, or is this primarily because this case has been so active on so many fronts that you just need more time?

I would emphasize that Mr. Murphy had income from his accounting business separate from J & J, did not receive direct money from J & J, and had significant assets before J & J came around. Moreover, unlike the other defendants, we disclosed this information to you fully. While I do not think we have to answer to other defendants on our

arrangements, the fact is that Mark's position is very different in the details that count. Mark is a licensed accountant who provided similar services to other clients long before J & J, pursued J & J and Judd/Beasley, cooperated with the SEC in March (before the SEC ever filed against anyone) by providing documents, information and availability), cooperated with the Receiver and Receiver's counsel before Counsel was even appointed arranging for documents the Receiver believed would be helpful, discussing strategies for more avenues of recovery and answering questions as posed. Murphy has expended time and money pursuing the same interests as the Receiver and SEC even before the SEC. We have been financially transparent and responsive. Moreover, much of this cooperation and assistance was done well before Mark was added as a defendant in the last amendment. As I discussed with you previously, this addition was very surprising to us and we believe was based in part as a response to the meritless accusations and noise by Judd's former counsel. This noise was as inaccurate as the other statements you addressed in response to his many motions and oppositions. Finally, Mark is looking towards resolution for himself and recovery for all the victims.

Thus, if the other defendants try and suggest different treatment, there is simply no apples to apples comparisons.

Please let me know.

Marc

From: Fronk, Casey <FronkC@SEC.GOV>
Sent: Thursday, October 6, 2022 3:16 PM
To: Marc Cook <MCook@bckltd.com>
Subject: RE: SEC v. Beasley

Marc,

We can't take a position on the transfer of money to James Sanders at this time. My suggestion would be that we stipulate to the response date and continue to discuss that issue.

-Casey

From: Marc Cook <MCook@bckltd.com>
Sent: Thursday, October 6, 2022 11:01 AM
To: Fronk, Casey <FronkC@SEC.GOV>
Subject: RE: SEC v. Beasley

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Casey,

Thank you. It is pretty straight forward. My only concern as to the response date is getting James Sanders involved. My recollection from our last conversation was that your review of his pre-October 2018 financials and his non- J&J accounting financials was that we were ok to send James the \$100k retainer he requires. However, I recall you wanted to talk to someone on your end first to confirm.

Can I get Sanders involved now or are you still waiting on that conversation?

Marc

From: Fronk, Casey <FronkC@SEC.GOV>
Sent: Wednesday, October 5, 2022 2:32 PM
To: Marc Cook <MCook@bckltd.com>
Cc: Combs, Tracy S <combst@SEC.GOV>
Subject: RE: SEC v. Beasley

Marc,

I've attached a proposed stipulation regarding a response date for Mr. Murphy to respond to the asset freeze and receivership motions. Please let me know if you have any questions or proposed edits – I'd like to get this on file prior to the status hearing next week.

-Casey

From: Marc Cook <MCook@bckltd.com>
Sent: Monday, October 3, 2022 9:31 AM
To: Fronk, Casey <FronkC@SEC.GOV>
Subject: Re: SEC v. Beasley

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yes. Thank you.
Marc

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Fronk, Casey <FronkC@SEC.GOV>
Sent: Monday, October 3, 2022 8:26:45 AM
To: Marc Cook <MCook@bckltd.com>
Subject: RE: SEC v. Beasley

Marc,

Does 1:00 this afternoon work for you?

-Casey

From: Fronk, Casey <FronkC@SEC.GOV>
Sent: Thursday, September 29, 2022 10:04 PM
To: Marc Cook <MCook@bckltd.com>
Subject: Re: SEC v. Beasley

Monday will work. Hope everything is well.

Casey R. Fronk
Trial Attorney
U.S. Securities and Exchange Commission
Salt Lake Regional Office
351 S. West Temple
Suite 6.100
Salt Lake City, UT 84101

(801) 524-6746 | FronkC@sec.gov

On Sep 29, 2022, at 8:02 PM, Marc Cook <MCook@bckltd.com> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Casey,

My wife has been in the hospital for just over 2 weeks. She should be going home tomorrow. I haven't done much the last couple weeks. If it is an emergency I certainly can but I would prefer to wait until Monday if possible.

Marc

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

From: Fronk, Casey <FronkC@SEC.GOV>

Sent: Thursday, September 29, 2022 1:45:02 PM

To: Marc Cook <MCook@bckltd.com>

Subject: SEC v. Beasley

Marc,

Do you have a few minutes tomorrow to discuss some issues that have come up with regard to Mr. Murphy?

-Casey

Casey R. Fronk

Trial Attorney
U.S. Securities and Exchange Commission
Salt Lake Regional Office
351 S. West Temple
Suite 6.100
Salt Lake City, UT 84101
(801) 524-6746 | FronkC@sec.gov

EXHIBIT D
(September 15, 2022 Email)

COOK & KELESIS
— LTD —
LAWYERS

517 South 9th Street
Las Vegas, Nevada 89101

Telephone: (702) 737-7702 • (702) 385-3788
Facsimile: (702) 737-7712
E-mail: law@bckltd.com

September 15, 2022

Via Email Only to:
(hendricksk@gtlaw.com)

Kara Hendricks, Esq.
Greenberg Traurig, LLP
10845 Griffith Peak Drive, Ste. 600
Las Vegas, Nevada 89135

Re: SEC vs. Matthew Beasley, et al.

Dear Kara,

I have received your letter dated September 9, 2022. I was somewhat surprised to get the letter, particularly as I believe we discussed this issue when I called you after you were first appointed as counsel for the Receiver. As you will recall, Mr. Murphy (and I) voluntarily provided and continued providing information and documents well before he was named as a Defendant in this case. In fact, the three of us were making arrangements on the phone together for Mr. Winkler to come over and review files when you received the notice that my client was named in the Amended Complaint. As I was not in the case, I did not even receive that notice but for your representation of the same.

In our conversations not only have I agreed to provide everything related to these accountings, but in fact, suggested alternative methods of getting additional funds into the Receivership such as in the matter that I had previously used in (Zukovsky) which we discussed, because the matter was also a Ponzi scheme but taxes were paid as though it was a legitimate business. Amending the returns led to a significant IRS refund in Zukovsky which we were able to return to the victims of the scheme.

Further, we provided documents to the SEC beginning in March and have provided copies of documents to you that have included these issues for a number of weeks and identified each of the same. These productions include the fact that Mr. Murphy did not receive any funds directly from J&J, Judd and/or Beasley. His accounting business clients were involved in these investments (which in the same capacity, included Mark Murphy). When the funds came in from J&J to his clients who invested in J&J, they came to one of Murphy's entities and he provided the bookkeeping and accounting work and provided the balance of those funds to his clients in proportion to their investment with J & J. Thus, he directly charged his clients for service he provided. He did not charge nor was he paid by J&J. Further, I am not aware of any witness who would suggest that he did not provide the services for which he charged. I provided

September 15, 2022
Kara Hendricks, Esq.
Page 2

the names of those clients to you, the Receiver and SEC counsel requesting that they confirm the same with the accounting clients.

Accordingly, the simplest answer to your request is that he did not receive any funds from any assets from the Ponzi scheme (other than returns on his own investments until March 2022). Nonetheless, two weeks ago, we also sent you documents that demonstrated his assets prior to October 2018 (when he began his services for his clients). We further provided bank statements which should include the funds that were provided to this law firm.

Moreover, I directly discussed with you the fact that Mr. Murphy's initial retainer in this matter when he believed it would be just our action pursuing this matter with the appointment of the Receiver was in the amount of \$200,000.00. A portion of those fees went directly to the Receiver and my client even authorized an additional \$25,000.00 from those fees to go to the Receiver to preserve an asset that was in foreclosure that Beasley's wife received in the divorce and the Receiver was concerned that if we could not attach that asset at that time, it would be lost in the foreclosure and devalue the estate.

When additional actions began, including the bankruptcy matter and the SEC matter (which did not include Mr. Murphy), we received an increased retainer in the amount of \$425,000.00 in anticipation of additional work. However, when it appeared that the bankruptcy matter would be consolidated with the receivership, we returned a significant portion of those funds to Mr. Murphy as at that time it looked like the SEC and Receivership appointed by the SEC would do the brunt of the work to which we would provide assistance as needed. To our surprise, Mark was added as a Defendant in this case. However, we did not increase the retainer and are currently holding \$309,121.62 in our trust account (and billing against the same).

Additionally, we have provided all of this information to the SEC. It is our understanding that the SEC is evaluating the information related to resolving this matter and/or addressing other issues related to the potential sought after injunction and Receivership order. It is my recollection from our conversations that you were deferring to the SEC as to those matters but understood our position.

If you require any further information regarding this matter, please feel free to call me.

Very truly yours,

COOK & KELESIS, LTD.

15/ Marc P. Cook

Marc P. Cook, Esq.

MPC/sif

EXHIBIT E
(Affidavit of Marc P. Cook, Esq.)

EXHIBIT F
(Affidavit of Mark A. Murphy)

AFFIDAVIT OF MARK A. MURPHY

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I, MARK A. MURPHY, am over the age of eighteen, am competent to testify to the following in this matter and give this declaration based upon personal knowledge and if called upon to testify, I would testify as set forth in this Affidavit as follows:

1. I am the Plaintiff in the in the above-named case (named individually and as the managing member of Mark A Murphy, Ltd.).
2. I met Defendant Jeffrey Judd (“Judd”) in or around 2002. Judd was a mortgage loan officer at that time. Judd was also involved in other businesses and my company, Mark A Murphy, Ltd., did the taxes for those businesses.
3. In 2017, Judd told me that he and Matthew Beasley (“Beasley”), an attorney, had started a company together where they would provide financial assistance to people who were suffering from various types of injuries in which an attorney was working toward obtaining monetary settlements from insurance companies.
4. Judd and Beasley told me that investors in their company provide funds that would go to these personal injury clients that gave them quicker access to money than having to wait for their case to reach conclusion. The personal injury clients would pay interest on the money and the investors would receive a quick return profit on each investment they made. The Defendants initially provided contracts under J&J Consulting Services, Inc. beginning in 2017, and they represented that the investments were legal and sound.³ I thought the business model presented and the idea appeared legitimate and meritorious.
5. I made an investment as an individual beginning with \$100,000.00 and received my first return on my investment in December 2017. After that, I received checks every three months without any problem. Over all, I invested a total of \$700,000.00, all with the same results.

³See Exhibit 3, example of a typical contract, attached hereto and incorporated herein as though fully set forth.

- 1 6. In 2018, others began to ask if they could invest as well. I formed a company called
2 American Colocation Services, Inc., and used that company to segregate funds that were
3 be invested from those others who wanted to invest. My family, friends and clients began
4 investing in \$100,000.00 increments. There were no issues or problems with their
5 investment returns during that time.
- 6 7. During this time, I had multiple telephone conversations with Judd wherein the soundness
7 and legality of the investments was represented to my by him. He also represented the
8 same to new investors. These discussions preceded investments from the investment
9 schedules.
- 10 8. Based on the return on investments and the promises made of continued returns of 7.5 -
11 13% in 90 days, the investors reinvested their original principal into new contracts.
12 Money was wired into the Beasley Trust Fund or wherever Beasley instructed.
- 13 9. January 1, 2022, J and J Purchasing, LLC was represented to be a Florida company and I
14 was provided a copy of the confidential private placement memorandum supposedly
15 prepared by a Dallas, Texas law firm. This, along with other business paperwork we
16 were provided with, was intended to demonstrate that the investments solicited by
17 Defendants were sound legal investments.⁴
- 18 10. Judd formed J and J Purchasing as part of doing an SEC Reg. D filing which was
19 represented to take effect January 2022.⁵
- 20 11. On March 2, 2022, I received a telephone call from Judd. He told me the FBI had been to
21 his house to question him about the investment business. Judd said that his home had
22 been raided and that his assets frozen based on the FBI's allegations of a Ponzi scheme.
23 He also told me that the FBI had been to Beasley's home and that Beasley had been

24 ⁴See Exhibit 4, J and J Purchasing, LLC documents provided to me by Judd, attached
25 hereto and incorporated herein as though fully set forth.

26 ⁵See Exhibit 5, J and J Purchasing, LLC SEC Reg. D filing, attached hereto and
27 incorporated herein as though fully set forth.

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injured. Judd also told me that this was not a Ponzi scheme, the investments were solid, and the business was legal.

12. In total, from 2017 when the investments began until March 2022, there have been more than 163 investors. I am aware of investments totaling more than \$16,000,000.00 in contracts. Some of those contracts have just one investor and others have several.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 17 day of March, 2022.

MARK A MURPHY, LTD.


Mark A. Murphy, Manager

SUBSCRIBED AND SWORN to before me
this 17 day of March, 2022.





Notary Public
in and for said County and State.

EXHIBIT G
(Invoice)

Mark A. Murphy, Ltd
Fax (702) 736-3013
2700 E. Sunset Rd. Ste 9
Las Vegas, NV 89120

10/14/2021

Bill To

J & J Consulting Services, Inc.
9 Sky Arc Court
Henderson, NV 89012

Invoice #

5288

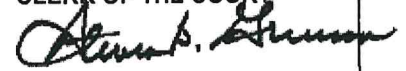
Terms

Description	Amount
Amended Tax Return Preparation Form 1120S U S Income Tax Return for an S Corporation Year 2020	500.00

Total	\$500.00
Payments/Credits	\$0.00
Balance Due	\$500.00

EXHIBIT H
(Murphy's State Complaint)

Electronically Filed
3/16/2022 3:24 PM
Steven D. Grierson
CLERK OF THE COURT



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COMPB
MARC P. COOK
Nevada State Bar No. 004574
COOK & KELESIS, LTD.
517 South Ninth Street
Las Vegas, Nevada 89101
Phone: (702) 737-7702
Fax: (702) 737-7712
E-mail: mcook@bckltd.com
Attorneys for Plaintiffs

CASE NO: A-22-849806-B
Department 22

DISTRICT COURT
CLARK COUNTY, NEVADA

MARK A. MURPHY, an individual; and
MARK A MURPHY, LTD., a Nevada
Limited Liability Company,

Plaintiff,

v.

MATTHEW BEASLEY, an individual;
BEASLEY LAW GROUP PC, a Nevada
Professional Corporation; JEFFREY JUDD,
an individual; J&J CONSULTING
SERVICES, INC., a Nevada Corporation; J
AND J PURCHASING, LLC; a Florida
Limited Liability Company; DOE
INDIVIDUALS I through XX; and ROE
ENTITIES I through XX, inclusive,

Defendants.

CASE NO.
DEPT. NO.

BUSINESS COURT

COMPLAINT

JURY TRIAL DEMANDED

EXEMPT FROM ARBITRATION
(Seeks Declaratory Relief and Receivership)

Hearing Date:
Hearing Time:

COMES NOW, Plaintiffs, Mark A. Murphy, (hereinafter "Plaintiff" or "Mr. Murphy")
and Mark A Murphy, Ltd. (hereinafter "Plaintiff" or "Murphy Ltd."), by and through their
attorney of record, Marc P. Cook, Esq., of the law firm of Cook & Kelesis, Ltd., and pursuant to
the Nevada Rules of Civil Procedure complain and allege as follows:

I.

INTRODUCTION

- 1 1. Plaintiffs are pursuing this litigation for lost funds in a purported Ponzi scheme to which
2 Plaintiff was an investor and to which Plaintiff is aware of a multitude of other investors.
3 In this action, Plaintiff requests a constructive trust over all funds of all investors for the
4 purpose of a pro rata distribution to each investor and, in an effort to provide the
5 necessary funds to make all investors whole, not just moving Plaintiffs through the
6 creation of a Receivership as pled hereinbelow.
- 7 2. Plaintiff, Murphy, is and was at all times relevant hereto, a resident of the County of
8 Clark, State of Nevada.
- 9 3. Plaintiff Mark A Murphy, Ltd., is and was at all times relevant hereto, a Nevada domestic
10 professional limited liability company, duly registered in the State of Nevada, and
11 authorized to conduct business in the County of Clark, State of Nevada.
- 12 4. Defendant, Matthew Beasley, (hereinafter "Defendant" or "Beasley"), is and was at all
13 times relevant hereto, a resident of the County of Clark, State of Nevada.
- 14 5. Defendant, Beasley Law Group PC, (hereinafter "Defendant" or "Beasley Law Group"),
15 is and was at all times relevant hereto, a Nevada domestic professional corporation, duly
16 registered in the State of Nevada, and authorized to conduct business in the County of
17 Clark, State of Nevada.
- 18 6. Defendant, Jeffrey Judd, (hereinafter "Defendant" or "Judd"), is and was at all times
19 relevant hereto, a resident of the County of Clark, State of Nevada.
- 20 7. Defendant, J&J Consulting Services, Inc., (hereinafter "Defendant" or "J&J Consulting"),
21 is and was at all times relevant hereto, a Nevada domestic corporation, duly registered in
22 the State of Nevada, and authorized to conduct business in the County of Clark, State of
23 Nevada.
- 24 8. Defendant, J and J Purchasing, LLC, (hereinafter "Defendant" or "J and J Purchasing"), is
25 and was at all times relevant hereto, a Florida limited liability company authorized to
26 conduct business in the County of Clark, State of Nevada.

1 9. The true names or capacities, whether individual, corporate, associate or otherwise, of
2 Defendants, DOE Individuals I through XX are unknown to Plaintiffs who, therefore, sue
3 said Defendants by such fictitious names; Plaintiffs are informed and believe and thereon
4 allege that each of the Defendants designated herein as DOE are responsible in some
5 manner for the events and happenings referred to and caused damages proximately to
6 Plaintiffs as herein alleged and that Plaintiffs will ask leave of this Court to amend this
7 Complaint to insert the true names and capacities of DOES I through XX when the same
8 have been ascertained and to join such Defendant in this action.

9 10. The true names or capacities, whether corporate, associate or otherwise, of ROE Entities,
10 I through XX are unknown to Plaintiffs who, therefore, sue said Defendants by such
11 fictitious names; Plaintiffs are informed and believe and thereon allege that each of the
12 Defendants designated herein as ROE are responsible in some manner for the events and
13 happenings referred to and caused damages proximately to Plaintiffs as herein alleged and
14 that Plaintiffs will ask leave of this Court to amend this Complaint to insert the true
15 names and capacities of ROE Entities I through XX when the same have been ascertained
16 and to join such Defendant in this action.

17 11. As a result of the actions as outlined herein, Plaintiffs have been forced to obtain the
18 services of an attorney to prosecute this action and are entitled to an award of reasonable
19 attorney's fees.

20 **II.**

21 **GENERAL FACTUAL ALLEGATIONS**

22 12. Jeffrey Judd was president of J and J Consulting to whom Plaintiffs and each of them
23 understood have been operating since at least 2005 and was a legal, viable entity.

24 13. Matthew Beasley, Esq., is the owner of Beasley Law Group PC since approximately 2011
25 and has been practicing law since 2006. Beasley had the highest rating available on
26 Martindale-Hubbel, the lawyers/attorneys rating site.

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- 1 14. Plaintiff met Judd in or around 2002. At that time Judd was a mortgage loan officer.
- 2 15. Over the next few years, Judd was involved in different businesses and Plaintiff's
- 3 company did the tax returns for those entities.
- 4 16. During 2017, Judd said that he had an attorney, Matthew Beasley of the Beasley Law
- 5 Group, who had started a company. The function of the company was to provide
- 6 financial assistance to parties suffering from various types of injuries in which an attorney
- 7 was seeking monetary settlements from insurance companies.
- 8 17. Judd and Beasley represented that they were conducting a business wherein investors
- 9 would provide funds related to providing personal injury clients with quicker access to
- 10 funds to which they would pay interest and the investor would receive a short return
- 11 profit on each investment. Defendants and each of them represented that these
- 12 investments were legal and sound. Defendants provided contracts for investments,
- 13 initially under J&J Consulting Services, to Plaintiff beginning in 2017
- 14 18. The idea and the business model presented appeared legitimate and meritorious.
- 15 19. During 2018, clients of Murphy asked if they could also invest. American Colocation
- 16 Services, LLC, a company properly formed by Murphy individually, was used to
- 17 segregate funds to be invested from those other sources.
- 18 20. Murphy individually invested in the company with a beginning amount of \$100,000.00.
- 19 21. Murphy received his first check in December 2017. Thereafter, Murphy received checks
- 20 every three months timely and without issues or problems.
- 21 22. Over time, Murphy invested \$700,000.00 with the same results.
- 22 23. Plaintiffs began investing with Defendants and each of them beginning in 2017 through
- 23 March 2022 in Nevada and had invested significant sums by 2022.
- 24 24. Plaintiffs' investments increased and gradually, with continued returns on investments
- 25 from 2017 through March 3, 2022, began assisting clients in placing these investments
- 26 with Defendants and each of them.
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- 1 25. From 2017 through March 3, 2022, Plaintiffs, by and through Mark Murphy, had multiple
2 conversations with Jeffrey Judd wherein the soundness and legality of these investments
3 was represented by Judd. These representations continued relative to new investors
4 wherein Judd would personally represent to these new investors and to Murphy the
5 soundness, legality and fluidity of these continued investments.
- 6 26. These discussions preceded investments from the investment schedules and took place
7 telephonically in Las Vegas, Nevada.
- 8 27. Based on the return on investments and representations of continued returns, the investors
9 reinvested their original principle into new contracts after the initial 90 days.
- 10 28. Plaintiff and other investors Plaintiff was aware were led to believe that these investments
11 would continue paying and therefore, based on the representation of the legality and
12 continued funds, agreed to continue these investments.
- 13 29. These investments paid off as represented from 2017 through March 2022.
- 14 30. Plaintiffs and other investors wired money to the Beasley trust fund or as otherwise
15 directed by Beasley and Judd.
- 16 31. Plaintiffs and other investors were promised a return of 7.5 - 13% in 90 days.
- 17 32. Plaintiffs and each of them reasonably relied on the representations by each and every
18 Defendant throughout this process including at the time of each investment.
- 19 33. Beginning in January 1, 2022, these same services were to be provided through J and J
20 Purchasing which was represented to be a Florida company.
- 21 34. In representing the legality of the same, Defendants and each of them provided a copy of
22 a confidential private placement memorandum purportedly prepared by a law firm in
23 Dallas, Texas. This documentation included operating agreements, disclosures, and what
24 appeared to all be appropriate business paperwork to demonstrate the sound legal
25 investments to which Defendants and each of them were soliciting.
- 26 35. Judd formed J and J Purchasing as part of doing an SEC Reg. D filing which was

1 represented to take effect January 2022.

2 36. On March 2, 2022, Murphy received a phone call from Judd. Judd said that the FBI had
3 been to his home to question him about this business. Judd also told Murphy that the FBI
4 had been to Beasley's home and Beasley had been injured. Judd had advised that his
5 home was raided by the FBI and his assets were frozen or taken based on the FBI's
6 allegations of a Ponzi Scheme. Even in this conversation, Judd represented that it was
7 not a Ponzi Scheme, the investments were solid, the business was legal, and if allowed to
8 continue, the profit distributions would continue as well.

9 37. Based on the FBI report, the FBI advised that these investments were part of a Ponzi
10 Scheme that had operated from 2017 to March 2022 in Nevada, Utah and California
11 promising up to a 13% return in 90 days if investors invested \$80,000 or \$100,000 into
12 personal injury investments.

13 38. As the FBI's statement attested, Plaintiffs' earlier contracts were 4 - 5 pages long and
14 often contained references to slip and fall incidents, the name of slip and fall victims
15 attorney, a settlement monetary award, a non-disclosure agreement, a purchasing
16 agreement and an investor agreement.

17 39. From the time it began in 2017 until March 2022, there have been over 163 total
18 investors. Plaintiff is aware of investing over \$16,000,000.00 in contracts. Some
19 contracts have only one investor while others have several.

20 **FIRST CAUSE OF ACTION**

21 **(Piercing the Corporate Veil)**

22 40. Plaintiffs' repeat and reallege each and every allegation contained in Paragraphs 1
23 through 39 of this Complaint and incorporates them by reference as though fully set forth
24 herein.

25 41. Notwithstanding the various entity structures of Defendants', and each of them, each of
26 them are jointly, severally, and individually liable under the doctrine of piercing the
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corporate veil.

42. Defendants, and each of them, have commingled funds, assets, and accounts without regard to entity formalities to perpetuate a fraud, to justify a wrong and/or create an injustice.

43. As a result of the above, each Defendant is individually, by and through their representatives, their boards and/or their trustees, responsible and liable for each and every cause of action referenced hereinabove.

44. As a result of Defendants' actions and inactions, as referenced hereinabove, Plaintiffs have been damaged in an amount in excess of \$10,000.00 to be more specifically determined at the time of trial.

SECOND CAUSE OF ACTION

(Accounting)

45. Plaintiffs repeat and reallege each and every allegation set forth in Paragraphs 1 through 44 of this Complaint and incorporates them by reference as though fully set forth herein.

46. Plaintiffs hereby demand that the Defendants, and each of them, produce for inspection and copying all of the business books, records, and financial records, including, but not limited to, all financial transactions, all bank account records, disbursement records, sales and tax records pertaining to each of the Defendant companies from 2017 forward.

47. Plaintiffs hereby demands that Defendants produce for inspection and copying all of the books and records pertaining to any transaction relating to any of Defendants' companies.

THIRD CAUSE OF ACTION

(Breach of Contract)

48. Plaintiffs repeat and reallege each and every allegation set forth in Paragraphs 1 through 47 of this Complaint and incorporates them by reference as though fully set forth herein.

49. Plaintiffs had valid enforceable contracts with Defendants.

50. Plaintiffs have performed all conditions precedent and performed to the extent required.

1 51. Defendants, and each of them, have breached the terms of the contractual agreement as
2 set forth hereinabove.

3 52. Plaintiffs have been substantially and materially harmed by such breach(es) in an amount
4 in excess of \$10,000.00 to be more specifically determined at time of trial.

5 **FOURTH CAUSE OF ACTION**

6 **(Unjust Enrichment)**

7 53. Plaintiffs repeat and reallege each and every allegation set forth in Paragraphs 1 through
8 52 of this Complaint and incorporates them by reference as though fully set forth herein.

9 54. In the event that the trier of fact determines the parties do not have valid agreement, with
10 the modifications and/or novation set forth herein, then the Defendants have been unjustly
11 enriched.

12 55. Further, as to issues beyond the scope of any contract, Defendants and each of them, have
13 been unjustly enriched.

14 56. Plaintiffs have been substantially and materially harmed by Defendants in an amount in
15 excess of \$10,000.00 to be more specifically determined at time of trial.

16 **FIFTH CAUSE OF ACTION**

17 **(Breach of the Covenant of Good Faith and Fair Dealing)**

18 57. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
19 56 of this Complaint and incorporates them by reference as though fully set forth herein.

20 58. Under Nevada law, every contract contains an implied covenant of good faith and fair
21 dealing that imposes on the parties the obligation to deal with each other fairly and
22 honestly.

23 59. Defendants placed themselves in the position of trust with Plaintiffs.

24 60. The Defendants, in their treatment of Plaintiffs, have breached the covenant of good faith
25 and fair dealing by engaging in a scheme of misinformation, withholding information and
26 intentional misrepresentation, including, but not limited to the acts set forth in paragraphs
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1 12 - 39 hereinabove, all of which have been promulgated by Defendants and each of
2 them, through Beasley and Judd individually and as an agent for the other Defendants in
3 Las Vegas/Henderson, Nevada from approximately 2017, through the date of filing the
4 Complaint.

5 61. As a result of Defendants' breaches of the covenant of good faith and fair dealing,
6 Plaintiffs have suffered economic losses and have further suffered emotional distress that
7 was reasonably foreseeable by the Defendants, all in an amount in excess of \$10,000.00.

8 **SIXTH CAUSE OF ACTION**

9 **(Breach of Fiduciary Duty)**

10 62. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
11 61 of this Complaint and incorporates them by reference as though fully set forth herein.

12 63. Defendants and each of them, individually, as board members and officers, employees
13 and/or trustees have mismanaged the entities and the associated companies and breached
14 their obligations and duties owed to the entity, and its investors.

15 64. This breach of fiduciary duties by the board members of each Defendant specifically
16 includes all actions alleged herein which were ratified by its board tacitly or actively or
17 through willful blindness.

18 65. As a direct and proximate result of the foregoing, Plaintiffs have been damaged in an
19 amount in excess of \$10,000.00 to be more specifically determined at the time of trial.

20 **SEVENTH CAUSE OF ACTION**

21 **(Conversion)**

22 66. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
23 65 of this Complaint and incorporates them by reference as though fully set forth herein.

24 67. The above referenced acts of the Defendants and each of them, were intentional and
25 resulted in serious interference with Plaintiffs' rights.

26 68. Defendants and each of them, exercised dominion and control over Plaintiffs' personal
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1 property by converting the same to their own use.

2 69. Defendants and each of them, are not the rightful owner of Plaintiffs' personal property
3 and its acts caused the conversion of the Plaintiffs' property.

4 70. Plaintiffs have been substantially and materially harmed by Defendants in an amount in
5 excess of \$10,000.00 to be more specifically determined at time of trial.

6 **EIGHTH CAUSE OF ACTION**

7 **(Embezzlement)**

8 71. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
9 70 of this Complaint and incorporates them by reference as though fully set forth herein.

10 72. The Defendants embezzled funds from Plaintiffs through several means, including, but
11 not limited to, transferring money rightfully belonging to Plaintiffs to other accounts for
12 Defendants' own use.

13 73. Plaintiffs are still gathering accounting information to account for some of the fraud and
14 conversion/embezzlements but further details may not be ascertained until discovery
15 takes place and information is obtained from Defendants.

16 74. Plaintiffs have been substantially and materially harmed by Defendants in an amount in
17 excess of \$10,000.00 to be more specifically determined at time of trial.

18 **NINTH CAUSE OF ACTION**

19 **(Obtaining Money/Property Under False Pretenses)**

20 75. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
21 74 of this Complaint and incorporates them by reference as though fully set forth herein.

22 76. Defendants and each of them intended to defraud Plaintiffs from their money (or acted
23 with reckless disregard for the truth).

24 77. Defendants' misrepresentations and misinformation was intentional or with reckless
25 disregard for the truth, knowing the same would be, and in fact, were relied on by the
26 Plaintiffs.

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1 78. Plaintiffs have been substantially and materially harmed in an amount in excess of
2 \$10,000.00 to be more specifically determined at time of trial.

3 **TENTH CAUSE OF ACTION**

4 **(Fraud)**

5 79. Plaintiffs hereby repeat and reallege each and every cause of action contained in
6 paragraphs 1 through 78 of this Complaint and incorporates them by reference as though
7 fully set forth herein.

8 80. Defendants and each of them, made false representations and committed fraud by
9 omission as described in paragraphs 12 - 39 hereinabove, all of which have been
10 promulgated by Defendants and each of them, through Judd, individually and as an agent
11 for the other Defendants in Las Vegas/Henderson, Nevada from approximately 2017,
12 through the date of filing the Complaint.

13 81. These representations were made by the above-referenced individual beginning in the Las
14 Vegas/Henderson, Nevada area.

15 82. The representations and omissions were mutual and made in order to induce Plaintiffs to
16 act.

17 83. Plaintiffs' reliance on these representations was reasonable.

18 84. The statements made by the parties represented hereinabove were known to be false and
19 fraudulent or made with reckless disregard for the truth and were part of the scheme on
20 behalf of the Defendants and each of them, to defraud Plaintiffs and others.

21 85. Plaintiffs are still gathering accounting information to account for some of the fraud and
22 conversion/embezzlements but further details may not be ascertained until discovery
23 takes place and information is obtained from Defendants.

24 86. Plaintiffs have been substantially and materially harmed by Defendants in an amount in
25 excess of \$10,000.00 to be more specifically determined at time of trial.

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ELEVENTH CAUSE OF ACTION

(Conspiracy to Defraud)

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87. Plaintiffs repeat and reallege each and every allegation set forth in Paragraphs 1 through 86 of this Complaint and incorporates them by reference as though fully set forth herein.

88. Defendants and each of them, made false representations and committed fraud by omission as described in paragraphs 12 - 39 hereinabove, all of which had been promulgated by Defendants and each of them, through Judd, individually and as an agent for the other Defendants in Las Vegas/Henderson, Nevada from approximately 2017, through the date of filing the Complaint.

89. These representations were made by the above-referenced individuals beginning in the Las Vegas/Henderson, Nevada area.

90. The representations and omissions were mutual and made in order to induce Plaintiffs to act.

91. Plaintiffs' reliance on these representations was reasonable.

92. The statements made by the Defendants represented hereinabove were known to be false and fraudulent or made with reckless disregard for the truth and were part of the scheme on behalf of the Defendants and each of them, to defraud Plaintiffs and others.

93. Defendants and each of them, together, and with each other and with third parties acting in concert with them did combine, conspire, confederate, and agree together and with each other to defraud the Plaintiffs.

94. In an overt act in furtherance of the conspiracy, Defendants and each of them acted together with third parties in an effort to acquire, transfer, or otherwise attain assets rightfully belonging to the Plaintiffs.

95. On information and belief, the Defendants and each of them, engaged in numerous transactions involving millions of dollars and transferring funds to third parties designed to further obscure and conceal the nature and extent of the fraud as well as the location of

1 the moved assets.

2 96. All of the foregoing was done intentionally, willfully, and with the specific purpose of
3 misleading and defrauding the Plaintiffs.

4 97. As a direct and proximate result of the Defendants, and each of their actions, Plaintiffs
5 have been damaged in an amount in excess of \$10,000.00 but within the jurisdictional
6 limits of this Court, to be more particularly determined at the time of trial.

7 **TWELFTH CAUSE OF ACTION**

8 **(Violation of the Uniform Fraudulent Transfer Act)**

9 98. Plaintiffs repeat and reallege each and every allegation set forth in Paragraphs 1 through
10 97 of this Complaint and incorporates them by reference as though fully set forth herein.

11 99. Defendants and each of them, made certain transfers from funds or from proceeds from
12 funds derived from Plaintiffs and from other innocent third parties and transferred assets
13 to other Defendant companies.

14 100. The transfers made and the obligations incurred by Defendants and each of them, were
15 fraudulent as to the Plaintiffs and other third parties who are defined as creditors under
16 NRS 112.150 because the Defendants and each of them, made transfers and otherwise
17 incurred obligations with the actual intent to hinder, delay or defraud the Plaintiffs.

18 101. In this regard, the intent to defraud the Plaintiffs is evident in that (a) transfers or
19 obligations were made to parties qualifying as insiders as that term is defined in NRS
20 112.150; (b) that the Defendants retained possession or control of property after the
21 transfer; (c) that transfers were made or obligations incurred after the Defendants or
22 entities learned that Plaintiffs were creditors; (d) that the transfers were of substantially
23 all of the Defendants' assets; (e) that the Defendants removed or concealed assets; and (f)
24 that the transfers occurred shortly before or shortly after a substantial debt was incurred.

25 102. As a direct and proximate result of the Defendants, and each of their actions, Plaintiffs
26 have been damaged in an amount in excess of \$10,000.00 but within the jurisdictional
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1 limits of this Court, to be more particularly determined at the time of trial.

2 **THIRTEENTH CAUSE OF ACTION**

3 **(Civil RICO)**

4 103. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through
5 102 of this Complaint and incorporates them by reference as though fully set forth herein.

6 104. Defendants, and each of them have engaged in fraud, obtaining money and/or property
7 under false pretenses, embezzlement, conversion and/or other general crimes including,
8 but not limited to those referenced in the causes of action hereinabove.

9 105. The foregoing acts that have been committed by the Defendants and each of them, are
10 prerequisite Nevada State RICO acts in excess of three (3) separate occasions through the
11 Defendants' enterprises.

12 106. The actions of Defendants, including, but not limited to, those acts as described in
13 paragraphs 12 - 39 hereinabove, discussed on separate occasions to several third parties,
14 including the Plaintiffs herein, all having the same or similar pattern, intents, results,
15 accomplishments, victims or methods of commission or as otherwise interrelated by
16 distinguishing characteristics, in a not isolated instance, having all occurred within a five
17 (5) year period of time.

18 107. Plaintiffs have been injured in their business or property by reasons of Defendants and
19 each of their violations of NRS 207.400 and resultantly have a cause of action against
20 Defendants and each of them for damages three (3) times the actual amount sustained as
21 well as attorney's fees, appellate costs, costs of investigation and litigation reasonably
22 incurred.

23 108. Plaintiffs have been substantially and materially harmed in an amount to be proven and
24 determined at trial, but in an amount in excess of this Court's minimal jurisdictional
25 requirement.
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FOURTEENTH CAUSE OF ACTION

(Declaratory Relief as Against All Defendants)

- 109. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 108 of this Complaint and incorporates them by reference as though fully set forth herein.
- 110. Plaintiffs seek declaratory relief as to their rights to terminate certain agreements.
- 111. Plaintiffs seek an order from this Court terminating Defendants' self-dealing agreements between the parties.
- 112. It has become necessary for Plaintiffs to engage the services of an attorney to commence this action and Plaintiffs are, therefore, entitled to reasonable attorney's fees and costs for damages.

FIFTEENTH CAUSE OF ACTION

(Claim and Delivery)

- 113. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 112 of this Complaint and incorporates them by reference as though fully set forth herein.
- 114. Defendants and each of them are wrongfully detaining, possessing and/or converting Plaintiffs' property. Plaintiffs are informed and believe, and based thereon allege that the actual value of said property is in excess of \$10,000.00 to be more specifically determined at the time of trial.
- 115. All demands for the return of said funds have been refused by Defendants.
- 116. Because of the Defendants never lawfully retained said funds, the Defendants must return said funds to its rightful owner, the Plaintiffs, or in the alternative, pay to Plaintiffs the actual value of said funds, to be more specifically determined at the time of trial.
- 117. As a result of Defendants' actions and inactions, as referenced hereinabove, Plaintiffs have been damaged in an amount in excess of \$10,000.00 to be more specifically determined at the time of trial.

SIXTEENTH CAUSE OF ACTION

(Receiver/Accounting/Constructive Trust)

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118. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 117 of this Complaint and incorporates them by reference as though fully set forth herein.

119. The appointment of a receiver and/or constructive trust for each Defendant is appropriate for the reasons set forth hereinabove and, on information and belief, Defendants have (1) commingled funds from various investors into multiple improper entities; (2) misrepresented company activities and earnings to various investors and governmental agencies; (3) misrepresented company activities and earnings to various contracted professionals; (4) encumbered the Corporation financially in amounts in excess of what the Corporation could afford; (5) improperly engaged in self dealing; (6) engaging in a series of business decisions which have resulted in financial hardship for the Corporation; and (7) wholly mismanaged the entities as is more particularly set forth in the factual background hereinabove and outlined in the causes of action.

120. Plaintiffs are informed and believe that unless otherwise restrained by this Court, Defendants and/or others subject to their dominion, influence or control, will cause further damage to the entities, and their value to the irrevocable detriment of Plaintiffs.

121. Plaintiffs believe and allege the appointment of a receiver and/or constructive trust will assist the investors of all Defendant entities.

122. Plaintiffs make such application for a receiver in this matter pursuant to NRS 78.650 and 32.010.

123. Plaintiffs are further entitled to an accounting and a Receiver and/or constructive trust to maintain these proceeds and account for the same and allow for the transition of the same to Plaintiffs, the rightful owner of the funds.

124. As a result of Defendants' actions and inactions, as referenced hereinabove, Plaintiffs are specifically entitled to the appointment of a Receiver and/or constructive trust.

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SEVENTEENTH CAUSE OF ACTION

(Punitive Damages)

125. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 124 of this Complaint and incorporates them by reference as though fully set forth herein.

126. Various causes of action pled herein demonstrate that the conduct of Defendants and each of them are of such an egregious, reckless and/or intentional nature or with such depraved indifference for the rights of the Plaintiffs to the extent to permit Plaintiffs to recover punitive damages in an amount in an amount in excess of \$10,000.00 to be more specifically determined at the time of trial.

WHEREFORE, Plaintiffs expressly reserve to amend their Complaint at the time of the trial herein to include all items of damage not yet ascertained, and prays for judgment against Defendants as follows:

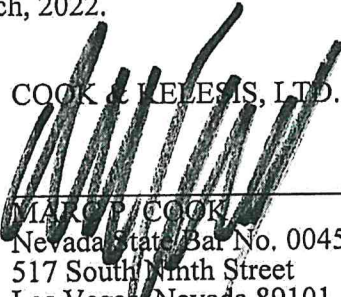
- 127. For general damages in an amount in excess of \$10,000.00;
- 128. For special damages in an amount in excess of \$10,000.00;
- 129. For compensatory damages in an amount in excess of \$10,000.00;
- 130. For treble damages under civil RICO in an amount in excess of \$10,000.00;
- 131. For punitive damages in an amount in excess of \$10,000.00;
- 132. For declaratory relief;
- 133. For equitable relief;
- 134. For attorney's fees;
- 135. For costs of suit herein incurred;
- 136. For attorney's fees and costs incurred to collect any judgment entered herein;

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1 137. For such other and further relief as the Court may deem just and proper.

2 DATED this 16th day of March, 2022.

3 COOK & KELESIS, LTD.
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5 
6 MARC P. COOK
7 Nevada State Bar No. 004574
8 517 South Ninth Street
9 Las Vegas, Nevada 89101
10 *Attorneys for Plaintiffs*
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