

1 KARA B. HENDRICKS, Bar No. 07743
hendricksk@gtlaw.com
2 JASON K. HICKS, Bar No. 13149
hicksja@glaw.com
3 KYLE A. EWING, Bar No 014051
ewingk@gtlaw.com
4 **GREENBERG TRAUIG, LLP**
10845 Griffith Peak Drive, Suite 600
5 Las Vegas, Nevada 89135
6 Telephone: (702) 792-3773
Facsimile: (702) 792-9002

7 JARROD L. RICKARD, Bar No. 10203
jlr@skrlawyers.com
8 KATIE L. CANNATA, Bar No. 14848
klc@skrlawyers.com
9 **SEMENZA KIRCHER RICKARD**
10161 Park Run Drive, Suite 150
11 Las Vegas, Nevada 89145
12 Telephone: (702) 835-6803
Facsimile: (702) 920-8669

13 *Attorneys for Receiver Geoff Winkler*

DAVID R. ZARO*
dzaro@allenmatkins.com
JOSHUA A. del CASTILLO*
jdelcastillo@allenmatkins.com
MATTHEW D. PHAM*
mpham@allenmatkins.com
*admitted *pro hac vice*
ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
865 South Figueroa Street
Suite 2800
Los Angeles, California 90017-2543
Telephone: (213) 622-5555
Facsimile: (213) 620-8816

14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 SECURITIES AND EXCHANGE
COMMISSION,

17 Plaintiff,

18 vs.

19 MATTHEW WADE BEASLEY *et al.*

20 Defendants;

21 THE JUDD IRREVOCABLE TRUST *et al.*

22 Relief Defendants.
23

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

**COURT-APPOINTED RECEIVER
GEOFF WINKLER'S RESPONSE TO
KAMILLE DEAN'S APPEAL FROM
AND OBJECTION TO
MAGISTRATE'S 11-17-22 ORDER
AND REQUEST FOR DE NOVO
REVIEW UNDER FEDERAL RULES
OF CIVIL PROCEDURE, RULE 72.3
(ECF NO. 380).**

24
25 ///

26 ///

27 ///

28 ///

1 Comes now, Geoff Winkler, the Court-appointed Receiver (the “Receiver”), by and
2 through his counsel of record the law firm of Greenberg Traurig, LLP, and hereby submits this
3 Response to Non-Party Kamille Dean’s Appeal From and Objection to Magistrate’s 11-17-22
4 Order and Request for De Novo Review Under Federal Rules of Civil Procedure, Rule 72.3
5 (ECF No. 380) (the “Objection”).

6 This Response is based upon the following Memorandum of Points and Authorities,
7 attached hereto, the pleadings and papers on file herein, and such other and further arguments and
8 evidence as may be presented to the Court in connection with the Motion.

9 DATED this 15th day of December 2022.

10 **GREENBERG TRAUIG, LLP**

11 By: */s/ Kara B. Hendricks*

12 KARA B. HENDRICKS, Bar No. 07743
13 JASON K. HICKS, Bar No. 13149
14 KYLE A. EWING, Bar No. 014051
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135

15 JARROD L. RICKARD, Bar No. 10203
16 KATIE L. CANNATA, Bar No. 14848
SEMENZA KIRCHER RICKARD

17 DAVID R. ZARO*
18 JOSHUA A. del CASTILLO*
19 MATTHEW D. PHAM*

20 *admitted pro hac vice
ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

21 *Attorneys for Receiver Geoff Winkler*

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. INTRODUCTION**

24 Not only does Ms. Dean’s Appeal From and Objection to Magistrate’s 11-17-22 Order and
25 Request for De Novo Review Under Federal Rules of Civil Procedure, Rule 72.3 (ECF No. 380)
26 (the “Objection”) rehash old arguments and cite to the wrong legal standard while misconstruing
27 the scope of the underlying Order, but **Ms. Dean has provided this Court with no authority**
28 *///*

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)

1 **or legal basis to demonstrate the Magistrate’s Order was clearly erroneous and thus there**
 2 **are no grounds to grant the relief requested.**

3 Notably, the underlying Motion to Compel¹ was necessitated due to delays and
 4 gamesmanship by Ms. Dean. Indeed, following his appointment, the Receiver began
 5 communicating with attorney Kamille Dean seeking the turnover of \$250,000 Ms. Dean had
 6 received from Defendant Jeffrey Judd. After a prolonged period of communications through
 7 which the Receiver sought to recover the funds at issue without judicial intervention, Ms. Dean
 8 made multiple representations that she would file a motion with the Court regarding her request to
 9 retain the funds she had received. However, Ms. Dean did not follow through. Instead, the
 10 Receiver was forced to file a Motion to Compel seeking an order from this Court directing
 11 Ms. Dean’s compliance with the Appointment Order (ECF No. 88). Rather than filing a response
 12 to the Motion to Compel, Ms. Dean submitted four (4) separate filings, unnecessarily burdening
 13 the Court and the Receiver. On November 17, 2022, the Magistrate issued its order granting the
 14 Receiver’s Motion to Compel through which Ms. Dean was directed to turn over the funds she had
 15 received to the Receiver within 30 days.² Additionally, the Magistrate issued an award of
 16 attorneys’ fees incurred by the Receiver in moving to compel Ms. Dean’s compliance.

17 By filing the Objection, Ms. Dean has wasted additional receivership assets by forcing the
 18 Receiver to respond to yet another frivolous filing. As demonstrated herein, the Objection misses
 19 the mark. Not only should the reconsideration request be denied, but the attorneys’ fees and costs
 20 incurred in connection with responding to the same should be awarded to the Receiver.

21 **II. SUMMARY OF PREVIOUS PROCEEDINGS**

22 The Objection arises from the Receiver’s August 1, 2022 Motion to Compel. ECF No. 210.
 23 The Motion to Compel was necessitated by Ms. Dean’s failure and/or refusal to turn over funds
 24 she had received belonging to Defendant Jeffrey Judd.³ After months of communications and

25 ¹ Motion to Compel or Alternative Motion for Order to Show Cause Why Kamille Dean Should Not be
 26 Held in Contempt for Failure to Comply With This Court’s Order (ECF No. 210) (the “Motion to Compel”).

27 ² Ms. Dean transferred \$201, 060 to the Receiver the day after the Order was issued.

28 ³ ECF No. 210 at p. 5-6. The Motion to Compel contains a detailed description of the facts preceding the
 filing of the Motion to Compel. For the sake of brevity, the Receiver incorporates by reference those facts
 as if fully set forth herein.

1 attempts by the Receiver to resolve the dispute amicably and without judicial intervention, it
2 became apparent Ms. Dean was not going to comply with the turnover provision established by
3 this Court. As a result, the Receiver moved the Court for an order compelling Ms. Dean’s
4 compliance, or in the alternative, the Receiver requested an order to show cause why Ms. Dean
5 should not be held in contempt for her failure to comply. ECF No. 210.

6 Rather than filing a response to the Motion to Compel, Ms. Dean filed four (4) separate
7 pleadings attacking the Receiver and/or his counsel in various respects. The Receiver filed an
8 Omnibus Response.⁴ ECF No. 275. Ms. Dean thereafter submitted three (3) reply briefs.
9 ECF Nos. 295, 296, 297. Despite flooding this Court with filings, each of Ms. Dean’s submissions
10 proved to be meritless. On November 17, 2022, U.S. Magistrate Judge Elayna Youchah entered
11 an Order granting the Motion to Compel and denying each of Ms. Dean’s four (4) filings relating
12 to the same (the “Order”). ECF No. 368.

13 Spanning twenty pages, the Order goes into great detail of each of the Receiver’s arguments
14 and Ms. Dean’s positions in response. Additionally, the Order evaluated the applicable authority
15 and applied the facts of this matter to the same prior to reaching its conclusion. Ultimately, the
16 Court found, among other things, the funds held by Ms. Dean were Receivership Property and
17 ordered Ms. Dean to turn over the same within 30 days. ECF No. 368 at p. 20. Additionally, the
18 Court awarded the Receiver his attorneys’ fees and costs incurred in bringing the Motion to
19 Compel. *Id.* Notably, the Order does not make a finding of contempt nor does it issue an order to
20 show cause as to why Ms. Dean should not be held in contempt. Rather, the Order simply directs
21 Ms. Dean to comply with the Appointment Order, to turn over the funds at issue and to reimburse
22 the receivership estate for the fees incurred in moving to compel Ms. Dean’s compliance. *Id.*

23 Two weeks later, Ms. Dean submitted the instant Objection asserting the same arguments
24 previously made and espousing a general dissatisfaction with the Court’s findings.

25 ///

26 ///

27
28 ⁴ ECF No. 368, at n. 1.

1 **III. ARGUMENT**

2 Although framed as an “Appeal and Objection” to the Magistrate’s Order, Ms. Dean’s
3 Objection is nothing more than a regurgitation of the arguments already presented to the Court.
4 Given the duplicity of the arguments in the Objection, in the interest of brevity, the Receiver hereby
5 incorporates by reference the arguments made in the Motion to Compel (ECF No. 210) and the
6 Receiver’s Omnibus Response to Ms. Dean’s filings (ECF No. 275). In order to aid judicial
7 efficiency, summaries of such arguments are referenced herein where necessary and appropriate.

8 **a. Applicable Standard**

9 At the outset, it is not entirely clear what legal standard Ms. Dean is attempting to utilize
10 to support the Objection. Her filing is titled as an “Appeal From and Objection to Magistrate’s
11 11-17-22 Order and Request for De Novo Review Under Federal Rules of Civil Procedure,
12 Rule 72.3”. ECF No. 380. Given that “Rule 72.3” does not exist within the Federal Rules of Civil
13 Procedure, it is presumed that Ms. Dean intends to proceed under FRCP 72. Rule 72 contemplates
14 two categories of pretrial orders issued by Magistrate Judges, those involving nondispositive
15 matter and those involving dispositive motions and prisoner petitions. *See* Fed. R. Civ. P. 72.
16 Given that Ms. Dean’s Objection requests “de novo review,” it appears she is trying to lodge an
17 objection under Rule 72(b)(3). However, FRCP 72(b)(3) is only applicable to dispositive motions
18 and provides:

19 The district judge must determine de novo any part of the magistrate judge’s
20 disposition that has been properly objected to. The district judge may
21 accept, reject, or modify the recommended disposition; receiver further
evidence; or return the matter to the magistrate judge with instructions.

22 Fed. R. Civ. P. 72(b)(3).

23 Here, Dean has not demonstrated for the Court that the Order falls within the purview of
24 Rule 72(b)(3) as a dispositive motion, thereby warranting de novo review. Indeed, relevant
25 authority from the Ninth Circuit demonstrates that matters such as motions to compel are non-
26 dispositive and therefore subject to a “clearly erroneous” standard of review. *See* Fed. R. Civ.
27 P. 72(a); *see also* LR IB 3-1 (“A district judge may reconsider any pretrial matter referred to a
28 magistrate judge in a civil or criminal case under LR IB 1-3, when it has been shown the magistrate

1 judge's order is clearly erroneous or contrary to law."); *see also* LR 59-1 (setting forth generally
 2 applicable "clear error" standard for motions for reconsideration and noting such motions are
 3 "disfavored").

4 Courts generally look to the "effect of the motion to determine whether it is characterized
 5 as 'dispositive or non-dispositive of a claim or defense of a party.'" *Flam v. Flam*, 788 F.3d 1043,
 6 1046 (9th Cir. 2015). Considering the text of Rule 72, court have regularly found matters akin to
 7 this dispute non-dispositive. *See e.g. Bailey v. Gatan, Inc.*, 783 F. App'x 692, 694 (9th Cir. 2019)
 8 (finding a Motion to compel discovery non-dispositive); *Cadence Design Sys. v. Syntronic Ab*,
 9 No. 21-cv-03610-SI, 2022 U.S. Dist. LEXIS 164135, at *5-6 (N.D. Cal. Sep. 12, 2022) (applying
 10 a clearly erroneous standard to a review of a magistrate order on a motion to compel). What is
 11 more, Courts have found only those matters excepted from the jurisdiction of a magistrate judge
 12 under 28 U.S.C. § 636(b)(1)(A)⁵ to be dispositive. *See Gomez v. United States*, 490 U.S. 858, 867-
 13 69, 109 S. Ct. 2237, 2243-44 (1989); *Maisonville v. F2 Am., Inc.*, 902 F.2d 746, 747-48 (9th Cir.
 14 1990) ("any motion not listed, nor analogous to a motion listed in this category, falls within the
 15 non-dispositive group of matters which a magistrate may determine.").

16 Under Local Rule LR IB 3-1, a magistrate judge's ruling on non-dispositive matters such
 17 as those addressed in Magistrate Judge Youchah's Order, is subject to reconsideration on where it
 18 "has been shown [that] the magistrate judge's order is clearly erroneous or is contrary to law."
 19 Local Rule LR IB 3-1(a); Fed. R. Civ. Proc. 72(a); 28 U.S.C. § 636(b)(1); *Heyman v. Nevada ex*
 20 *rel. Bd. of Regents of Nevada Sys. of Higher Educ.*, 2019 WL 7602241, at *2 (D. Nev. Feb. 28,
 21 2019). "This standard is extremely deferential and should be considered the final decisions of the
 22 district court." *Wi-Lan, Inc. v. LG Elecs., Inc.*, No. C 10-80254-JF PSG, 2011 U.S. Dist. LEXIS
 23 29400, 2011 WL 841271, at *1 (N.D. Cal. Mar. 8, 2011) (*citing EEOC v. Lexus of Serramonte*,
 24 No. C 05-0962 SBA, 2006 U.S. Dist. LEXIS 67895, 2006 WL 2619367, at *2 (N.D. Cal. Sept. 5,
 25 2006).

26 _____
 27 ⁵ Section 636 provides a magistrate may "hear and determine any pretrial matter pending before the court,
 28 except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or
 quash an indictment or information may by the defendant, to suppress evidence in a criminal case, to dismiss
 or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be
 granted, and to involuntarily dismiss an action." 28 U.S.C. § 636(b)(1)(A).

1 To reach the “clearly erroneous” standard, the reviewing court must find “although there
2 is evidence to support it, the reviewing court on the entire evidence is left with the definite and
3 firm conviction that a mistake has been committed.” *United States v. Chee*, 191 F. Supp. 3d 1150,
4 1152 (D. Nev. 2016) (citing *United States v. Hinkson*, 585 F.3d 1247, 1260 (9th Cir. 2009)). The
5 district court’s review is limited to “determining whether the [magistrate judge] reached a decision
6 that falls within any of the permissible choices the court could have made.” *Hinkson*, 585 F.3d at
7 1261.

8 Likewise, a magistrate judge’s order will be found “contrary to law” only where “it fails to
9 apply or misapplies relevant statutes, case law, or rules of procedure.” *United States v. Desage*,
10 229 F. Supp. 3d 1209, 1213 (D. Nev. 2017) (citing *Jadwin v. County of Kern*, 767 F. Supp. 2d
11 1069, 1110-11 (E.D. Cal. 2011)). “The ‘contrary to law’ standard allows independent, plenary
12 review of purely legal determinations by the Magistrate Judge.” *Jadwin*, 767 F. Supp. 2d at 1110.
13 Ultimately, “the text of the Magistrates Act suggests that the magistrate judge’s decision in such
14 nondispositive matters is entitled to great deference by the district court.” *United States v. Abonce-*
15 *Barrera*, 257 F.3d 959, 969 (9th Cir. 2001); *see also Mayorga v. Ronaldo*, 491 F. Supp. 3d 840,
16 846 (D. Nev. 2020) (quoting *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr.*
17 *for S. Cal.*, 508 U.S. 602, 623 (1993)).

18 Here, Ms. Dean asserted a number of positions in objecting to the Motion to Compel,
19 however the dispute before this Court is not dispositive as contemplated by Rule 72.⁶ As such, the
20 Court’s Order is not subject to de novo review as Ms. Dean has requested but is instead, subject to
21 a clearly erroneous standard not addressed in the Objection. Fed. R. Civ. P. 72(a). Indeed,
22 Ms. Dean’s Objection contains little more than an expression of her frustration that the Court ruled
23 against her and a regurgitation of the arguments already made and ruled upon. As discussed more
24 fully herein, Ms. Dean has failed to reach the high bar imposed upon a litigant in her shoes.
25 Ms. Dean has not demonstrated the Order was clearly erroneous in any respect, but instead has
26

27
28 ⁶ Ms. Dean filed (1) a Motion to Strike; (2) a Motion for Leave to File Interpleader; (3) a Motion to Quash
Jurisdiction; and (4) an Objection to the Declarations submitted by the Receiver. *See* ECF Nos. 257-260.

1 opted to re-argue the positions already disposed of by the Magistrate. As such, Ms. Dean’s
2 Objection should be overruled and the Court’s Order likewise affirmed.

3 **b. Summary of Ms. Dean’s Arguments**

4 Ms. Dean’s Objection is difficult to follow. The body of the filing is repetitive, jumbled,
5 and contradicts itself. In an effort to streamline this Court’s consideration, Ms. Dean’s arguments
6 can be summarized as follows:

7 (1) Ms. Dean argues she has purged any claim of contempt and as a result, the
8 dispute in this matter is moot. Ms. Dean compounds this position by arguing that following her
9 “purge,” there is no final contempt order and an award of attorneys’ fees is therefore improper.
10 Ms. Dean makes additional arguments that the Court erred in granting the motion to compel
11 because a contempt proceeding cannot be based on affidavits alone.

12 (2) Ms. Dean next takes issue with the Court’s finding that the Receiver
13 complied with 28 U.S.C. § 754. The Court found that the Amended Appointment Order restarted
14 the ten-day clock within which timeframe, the Receiver satisfied Section 754’s notice
15 requirements. Ms. Dean bases her position on the argument that an amended appointment order
16 is distinct from a reappointment order and therefore, Section 754 has not been met.

17 (3) Ms. Dean asserts numerous arguments regarding purported claims to the
18 funds she held in her account. Specifically, Ms. Dean complains that she was subjected to
19 “conflicting demands” in that her purported clients and contract attorneys have demanded that she
20 not disburse the funds she received from Defendant Judd. Ms. Dean utilizes this argument to assert
21 that she has been placed in a “legal vice” in which she could not comply with the Court’s order
22 and simultaneously satisfy her duties under the rules of professional conduct. Based upon this
23 position, Ms. Dean argues the proper method for determining the ownership of the funds is through
24 an interpleader proceeding.

25 (4) Ms. Dean repeatedly claims that her due process rights have been violated
26 through the instant proceedings. More specifically, she alleges that a summary proceeding was
27 inappropriate and that she should have been given a plenary hearing with a complaint, discovery,
28 and jury trial to parse out her arguments that she is entitled to keep the funds.

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)

1 (5) Ms. Dean also asserts that she should be entitled to retain the funds at issue
2 because she was a “bona fide purchaser and seller of services without notice.” In making this
3 argument, Ms. Dean alleges that she earned the totality of the fees before becoming aware of this
4 proceeding or the Receivership.

5 (6) Ms. Dean disagrees that she bears the burden to establish the funds she held
6 were untainted. Instead, Ms. Dean posits the onus is upon the Receiver to demonstrate the funds
7 were tainted.

8 Each of these arguments is addressed below and nothing presented in the Objection
9 demonstrates the findings in the Order were clearly erroneous.

10 **c. Ms. Dean Has Not Demonstrated The Order Was Clearly Erroneous**

11 Ms. Dean has failed to present this Court with any grounds upon which the Order should be
12 amended or reconsidered. Although repetitive, jumbled, and difficult to follow, Ms. Dean’s
13 Objection centers on her argument that the Magistrate Judge erred by (1) finding the Receiver
14 complied with Section 754; (2) Ms. Dean’s other “clients” did not receive notice of these
15 proceedings despite their purported interest in the funds at issue; (3) Ms. Dean was subjected to
16 conflicting demands; (4) there was no evidence Ms. Dean held Receivership Property; (5) the
17 Magistrate Judge utilized an improper standard in holding Ms. Dean had the burden of proof to
18 show the funds in her account were not receivership property; (6) the Magistrate never ruled on
19 whether Ms. Dean was a bona fide purchaser; and (7) the Magistrate granted the motion to compel
20 thereby depriving her of a trial and due process of law. *See generally*, ECF No. 380 at p. 1.
21 Additionally, Ms. Dean devotes a considerable amount of time arguing that she has “purged” any
22 contempt and as a result, this matter is moot. ECF No. 380 at pp. 1-2. Building upon this
23 argument, Ms. Dean asserts, in the absence of a finding of contempt, the award of attorneys’ fees
24 is improper. *Id.*

25 Despite the considerable ink spilled on these issues, Ms. Dean has presented this Court
26 with nothing to demonstrate the Magistrate Judge’s ruling was clearly erroneous or that the Order
27 need be modified in any respect.

28 ///

1 **i. Ms. Dean’s Arguments Regarding Contempt Lack Merit**

2 Littered throughout the Objection are references to findings of contempt, the requirements
3 therefor, and the Court’s inability to impose sanctions, including attorneys’ fees, following the
4 conclusion of a contempt proceeding. However, the Order does not make findings of contempt
5 against Ms. Dean and the arguments in this regard should be summarily discarded.

6 As this Court is certainly aware, Ms. Dean was not found to be in contempt nor did any
7 contempt proceedings occur. The Receiver’s Motion sought an order compelling Ms. Dean’s
8 compliance with court mandates or, **alternatively**, an order to show cause why she should not be
9 held in contempt. ECF No. 210. However, the Court never reached the issue of contempt as the
10 Order simply directed Ms. Dean to comply with the Appointment Order and turn over the funds
11 she had received from Defendant Judd. ECF No. 368 at p. 20. In other words, there was no finding
12 of contempt and Ms. Dean’s arguments relating thereto have no place in this proceeding.

13 **ii. The Order Clearly Establishes That the Receiver Complied With 28**
14 **USC § 754 and Ms. Dean Has Not Demonstrated the Court’s Finding**
15 **Was Clearly Erroneous.**

16 Ms. Dean’s arguments that this Court was divested of jurisdiction because the Receiver
17 failed to comply with the filing requirements found in 28 U.S.C. § 754 are likewise without merit.⁷
18 Ms. Dean based her arguments in both the underlying briefs and the Objection on the fact that the
19 Receiver filed the requisite notice in Arizona on August 5, 2022, approximately two (2) months
20 after his appointment. However, Ms. Dean fails to counter the irrefutable authority demonstrating
21 (a) the Receiver’s ten-day clock restarted upon the issuance of the Amended Appointment Order;
22 and (b) the terms of Section 754 are subject to numerous exceptions and policies permitting a court
23 to retain jurisdiction over out-of-state assets in light of the purpose of an equity receivership.

24 Through the Order, the Magistrate Judge considered (1) whether the Amended
25 Receivership order filed on July 28, 2022, reset the ten-day clock set by § 754; and (2) if the clock
26 was not reset, whether there were exceptions or bases upon which the Court could find the Receiver
27 was not divested of jurisdiction over the funds. ECF No. 368 at p. 15. Ultimately, the Magistrate

28 ⁷ Once again, this matter was fully briefed, and the Receiver incorporates the arguments set forth in the Receiver’s Omnibus Response as if set forth fully herein.

1 Judge found that the Amended Appointment Order (ECF No. 207) reset the ten-day clock and
2 therefore, the Receiver’s filing in Arizona was timely.⁸ The analysis in the Order and underlying
3 briefs filed by the Receiver demonstrate this determination was not clearly erroneous.

4 The Objection also objects to the Order on the ground that the Amended Receivership
5 Order (ECF No. 207), did not “reappoint” the Receiver and therefore, the 10-day clock under
6 Section 754 did not restart. ECF No. 380 at 3-5. Although Ms. Dean’s arguments on this point
7 are strewn and repeated in multiple places in the Objection, the arguments are all premised on the
8 same authority and Ms. Dean’s disagreement with the conclusions reached in the Order. Indeed,
9 Ms. Dean goes so far as to call the Order an “illegitimate attempt to save the Receiver from his
10 jurisdictional error.” ECF No. 380 at p. 20. Despite the unjustified attack, Ms. Dean has once
11 again failed to demonstrate that the Receiver failed to comply with Section 754 and ignores ample
12 authority demonstrating an amended order of appointment restarts the 10-day clock.⁹ This
13 includes specific reference in the Order to the court’s examination of relevant case law. *See*
14 ECF No. 368 at p. 16 (“the Court’s examination of the holding in *Ashmore* and the subsequent
15 cases cited by Ms. Dean confirms Ms. Dean has not cited any case that makes a definitive
16 distinction between an order the ‘reappoints’ a Receiver and an order that ‘amends’ an existing
17 receivership order.”). The Order also provides relevant analysis demonstrating the Amended
18 Appointment Order, like the reappointment order in *Ashmore*, superseded the original appointment
19

20
21 ⁸ Ms. Dean’s arguments rested on her position that the 10-day clock would only reset upon the entry of a
22 **reappointment** order—as opposed to an amended appointment order. However, the Court found that
23 Ms. Dean had failed to present any authority distinguishing a reappointment order from the amended order
24 in this case. ECF No. 368 at p. 15-16. As such, the Court ruled “[b]ased on the foregoing, the Court finds
25 that the Amended Receivership Order resets the ten-day clock under § 754 rendering Receiver’s August 5,
26 2022 Arizona filing timely.” ECF No. 368 at p. 16.

27 ⁹ The Magistrate’s Order clearly and unequivocally considered the arguments in the briefs, evaluated the
28 applicable authority, and found that the Receiver had complied with the notice requirements of Section 754.
Indeed, in reaching its conclusion, the Court cited *Ashmore v. Barber*, Case No. 8:15-cv-04487-JMC, 2016
WL 4555340 (D.S.C. Sept. 1, 2016) as instructive authority, demonstrating an amended order of
appointment restarts the 10-day clock. ECF No. 368 at p. 15. *Ashmore* involved a consideration of the
purpose of a receivership and its role in determining whether to enforce jurisdiction under Section 754—
something Ms. Dean has failed to comprehend. “[I]t seems most consistent with that purpose to permit a
receiver who has failed to file within the ten-day period to reassume jurisdiction by a later filing, as long
as the rights of others have not been prejudiced during the intervening period.” *S.E.C. v. Equity Serv. Corp.*,
632 F.2d 1092, 1096 (3rd Cir. 1980).

1 Order, thereby necessitating a new ten-day period for the Receiver to comply. ECF No. 368
2 at p. 16.

3 Ms. Dean appears to have a fundamental misunderstanding of an equity receivership.
4 Indeed, the primary purpose of a receiver is to “promote orderly and efficient administration of the
5 estate by the district Court for the benefit of the creditors.” *SEC v. Hardy*, 803 F.2d 1034, 1038
6 (9th Cir. 1986). The Court appointed the Receiver in this case to preserve the status quo and to
7 gather and recover receivership assets for the benefit of the Receivership Estate. ECF Nos. 88,
8 207. Despite being aware of the purpose of the Receivership and the Ponzi-scheme giving rise
9 thereto, Ms. Dean has continued to assert that she is somehow immune from the orders that control
10 countless other parties, including counsel who have previously taken the same position as
11 Ms. Dean. Indeed, Ms. Dean asserts she cannot be “bound by orders which have nothing to do
12 with her.” ECF No. 380 at p. 12. Ms. Dean’s unwarranted refusal to acknowledge the Receiver’s
13 role in this case and the scope of the orders entered in this matter has, in turn, diminished the value
14 of the Receivership Estate, and provides ample grounds for the award of fees entered by the
15 Magistrate Judge.

16 In sum, Ms. Dean has provided this Court with no evidence or authority to support any
17 finding other than that which was reached in the Order. The Amended Appointment Order was
18 issued on July 28, 2022, and within the time frame permitted under Section 754, the Receiver filed
19 the requisite notice in Arizona. In the absence of any such authority demonstrating that an
20 amended appointment order differs from a reappointment order and does not restart the ten-day
21 clock under Section 754, Ms. Dean cannot establish that the Court’s ruling was in error and her
22 objection to the findings should be overruled.

23 **iii. This Court Expressly Found Ms. Dean’s Arguments of “Conflicting**
24 **Demands” Unavailing**

25 The underlying briefing in this matter demonstrates an attempt by Ms. Dean to utilize the
26 Arizona rules of Professional Conduct as a shield from this Court’s order. Indeed, in response to
27 the Motion to Compel, Ms. Dean argued that an interpleader action was necessary to resolve a
28 purported dispute over the funds she held in her trust account. More specifically, Ms. Dean averred

1 that the funds she had received were paid by each of her six (6) clients (consisting of the Judd
2 family) and that her other five (5) clients had staked a claim in the funds she held. *See e.g.*
3 ECF No. 258, at 7:21-26. Through her Objection, Ms. Dean raises no new arguments on this front
4 and instead simply reargues what is in her prior briefs and concludes that the Court was incorrect
5 in reaching its finding.

6 However, through the Motion to Compel and the Omnibus Response, the Receiver
7 demonstrated the source of the funds, clearly establishing the same as Receivership Property.
8 ECF No. 275 at p. 6-7. Ms. Dean opposed this demonstration with nothing more than her own
9 assertion that the funds were not receivership property and that there were existing claims to the
10 funds preventing her from transferring the funds to any party. ECF No. 258 at p. 7. The Court
11 considered Ms. Dean's position and swiftly disposed of the same citing Ms. Dean's failure to
12 produce any evidence in support. ECF No. 368 at p. 13. Key to the Magistrate Judge's decision
13 was that Ms. Dean did not demonstrate any actual evidence that any member of the Judd family
14 was disputing the ownership of the funds at issue. ECF No. 368 at p. 18. The Objection is much
15 of the same.

16 In an attempt to cure this deficiency included in the Objecting is a letter from the "Law
17 Office of Maureen Jaroscak" (the "Jaroscak Letter").¹⁰ ECF No. 381 at p. 103. The Jaroscak
18 letter, dated November 7, 2022 (approximately two months after Ms. Dean filed her Reply briefs
19 (ECF Nos. 295-297) purports show there is a dispute because Ms. Jaroscak demanded that
20 Ms. Dean not distribute the funds at issue. *Id.* However, Ms. Jaroscak's belated demand and her
21 opinion regarding what is and is not prohibited are contradicted by prior orders issued by this
22 Court.

23 Setting aside the questionable timing and veracity of the Jaroscak Letter, such
24 correspondence does nothing to overcome the Court's finding that an interpleader is not
25 appropriate in this case. Indeed, a self-serving letter dated months after the conclusion of the

26 _____
27 ¹⁰ Notably, Ms. Jaroscak has been undeniably aware of these proceedings and has been at least tangentially
28 involved in the same. On August 15, 2022, Ms. Jaroscak emailed Kara B. Hendricks, counsel for the Receiver providing copies of Ms. Dean's filing in response to the Motion to Compel. Thus, to feign surprise as to the Receiver's demands and the Motion to Compel proceedings is disingenuous and the letter submitted in conjunction with the Objection should be given no weight.

1 briefing on this issue, by an attorney apparently involved in some respect, who has previously been
2 disciplined by the California State Bar for her lack of candor does not subvert the Receiver’s right
3 to the funds at issue.¹¹ However, even assuming, *arguendo*, this Court were to entertain the
4 Jaroscak letter for what is proposes, there is no evidence to support the contentions therein.

5 Notwithstanding the foregoing, the Objection asserts the “conflicting demands” position
6 for a number of arguments including (a) that an interpleader action was necessary; and (b) that
7 Ms. Dean was placed in an “untenable position” wherein she could not comply with Arizona law
8 and avoid being found in contempt. ECF No. 380 at p. 8-9. However, despite her efforts to flood
9 this Court with information and argument, Ms. Dean has still failed to demonstrate that a valid
10 dispute over the funds at issue exists.

11 “Although Ms. Dean provided certain documents indicating there was an
12 agreement reached between herself and six members of the Judd family regarding
13 legal services, there is no evidence—other than statements made in Ms. Dean’s
14 filing—that members of the Judd family are disputing the ownership of these funds.
Ms. Dean’s arguments in her pleadings are not evidence.”

15 ECF No. 380 at p. 18 (citing *United States v. Zermeno*, 66 F.3d 1058, 1062 (9th Cir, 1995)).

16 Ms. Dean’s displeasure with being compelled to turn over the funds and the self-serving
17 letter drafted months after Ms. Dean and Ms. Jarosack were made aware of the Appointment Order
18 and months after the briefing on the Motion to Compel was completed do not provide a basis for
19 a ruling to be issued contrary to the Magistrate Judge’s findings.

20 Likewise, Ms. Dean’s repeated arguments that only 1/6th of the funds she received should
21 be subject to turn over as the remaining 5/6ths represent the funds allocated to the other five Judd
22 family members was squarely addressed in the Order. Indeed, the Magistrate Judge’s findings
23 specify that Ms. Dean had failed to provide, and the Court was unaware of, any authority
24 supporting the proposed segregation of the funds at issue. ECF No. 368 at p. 14. Notably, the
25

26 ¹¹ Ms. Jaroscak has previously been suspended and disciplined by the State Bar of California for her
27 violations of (1) section 6106 (moral turpitude-breach of fiduciary duty); (2) section 6068, subdivision (i)
28 failure to cooperate with a State Bar investigation [two counts]; (3) rule 4-100(A) (commingling personal
funds in a client trust account); and (5) Section 6106 (moral turpitude – dishonesty). *See In the Matter of
Maureen Patricia Jaroscak*, State Bar Court of California, Case Nos. 07-O-11968-DFM (Mar. 3, 2011).

1 Objection contains no legal authority and simply asserts that the Order is wrong. Displeasure with
2 the Court’s ruling is not grounds for relief requested. *See* Fed. R. Civ. P. 72, LR IB 3-1.

3 **iv. The Funds Previously Held by Ms. Dean Are Receivership Property**
4 **and the Burden is on Ms. Dean to Demonstrate Otherwise**

5 As noted herein, the underlying dispute stems from Ms. Dean’s receipt of \$250,000 from
6 Defendant Jeffrey Judd.¹² Through the instant Objection, Ms. Dean disagrees with the Court’s
7 finding that the funds at issue were Receivership Property. The primary focus of Ms. Dean’s
8 argument is that the Magistrate Judge applied an improper standard in finding that Ms. Dean
9 shoulders the burden of establishing the funds she seeks to keep are untainted—as opposed to the
10 Receiver’s obligation to demonstrate the funds at issue are tainted. This question has been
11 previously addressed by this Court in this case on numerous occasions. Each time the Court has
12 consistently found that the burden is on the party seeking to retain the funds held on behalf of a
13 defendant. Ms. Dean cannot stick her head in the sand and pretend the issue has not been
14 appropriately addressed.

15 Importantly, Ms. Dean has provided this Court with no basis upon which it could find the
16 Magistrate’s Order clearly erroneous. Rather, Ms. Dean simply argues “neither the Magistrate nor
17 the Receiver have established that Ms. Dean has the burden of showing her retainer is not tainted.”
18 ECF No. 380 at p. 14. This is simply not accurate. Ms. Dean’s position willfully overlooks this
19 Court’s express finding that the SEC established a prima facie showing that Jeffrey Judd “directly
20 and indirectly engaged in the violations alleged in the Complaint and, as a result, the burden is on
21 the party seeking to retain funds to establish any such funds are untainted.” ECF No. 235 at p. 8
22 (citing *SEC v. Santillo*, No. 18-cv-5491 (JGK), 2018 WL 3392881, at * 4 (S.D.N.Y. July 11, 2018)
23 and *SEC v. Private Equity Mgmt. Group, Inc.*, 2009 WL 2058247, at *2-3 (C.D. Cal. July 9, 2009)).
24 Given that the record in this case clearly demonstrates the burden is on Ms. Dean to establish the
25 funds at issue are untainted, Ms. Dean’s objection regarding a purported lack of evidence that the
26 funds are receivership property is meritless.

27 _____
28 ¹² The path the funds took to reach Ms. Dean is discussed in detail in the Receiver’s Omnibus Response,
ECF No. 275 at p. 6-7.

1 v. **Ms. Dean’s Claimed Status as a Bona Fide Purchaser is of no**
2 **Consequence**

3 Ms. Dean objects to the Magistrate Judge’s Order arguing she was a bona fide purchaser
4 and seller of services without notice and that the Magistrate ignored her status as such.
5 ECF No. 380 at p. 11-12. Ms. Dean goes on to allege “[t]he SEC and Receiver cannot pretend
6 Ms. Dean is bound by orders which have nothing to do with her, and the SEC and Receiver have
7 not presented one scrap of evidence to assume their burden of proof by showing clear and
8 convincing evidence that the Receiver is entitled to the funds in Ms. Dean’s account.”
9 ECF No. 380 at p. 12. It is not entirely clear what Ms. Dean intends to accomplish through the
10 foregoing passage. As an experienced attorney, Ms. Dean should be cognizant of the fact that this
11 Court took **exclusive jurisdiction** over the Receivership Assets, which in this case, includes the
12 funds previously held by Ms. Dean. ECF Nos. 3, 56, 88, and 207. Thus, to the extent Ms. Dean
13 has argued this Court cannot enforce the TRO, Preliminary Injunction, or the Appointment Order,
14 Ms. Dean’s foundation for such an argument is lacking.

15 Moreover, Ms. Dean has not demonstrated that she is a bona fide purchaser sufficient to
16 immunize the funds at issue from the reach of the Receivership. In support of her claimed BFP
17 status, Ms. Dean cites to *United States v. McCorkle*, 321 F.3d 1292, 1295 (11th Cir. 2003) for the
18 apparent position that she is entitled to keep the funds she received from Mr. Judd. ECF No. 380
19 at p. 12. Ms. Dean cherry picks a portion of footnote 4 of the *McCorkle* decision which
20 contemplates a scenario in which the court would pro rate the value of services that have been
21 rendered by the attorney, immunizing from forfeiture only those fees earned while meeting the
22 BFP test. ECF No. 380 at p. 12. However, upon review, *McCorkle* does not stand for what
23 Ms. Dean proposes instead, the court herein in applied a clearly erroneous standard, affirmed the
24 district court’s denial of Bailey’s petition to retain the funds he had received from the McCorkles.
25 *United States v. McCorkle*, 321 F.3d 1292, 1298.¹³

26 _____
27 ¹³ In *McCorkle*, William and Chantal McCorkle were found guilty of laundering the proceeds of a
28 fraudulent telemarketing scheme. *United States v. McCorkle*, 321 F.3d 1292, 1294-95 (11th Cir. 2003).
Following the guilty verdict, the jury returned a special verdict forfeiting the McCorkle’s interest in certain
assets to the United States. Included in the forfeited assets were funds that were transferred to a trust in the
Cayman Islands and then to F. Lee Bailey, counsel for William McCorkle. Bailey petitioned the Court to

1 Ms. Dean’s reliance on *McCorkle* is curious because (a) the holding does not support her
 2 position that she is entitled to retain the funds she was paid; (b) the Court expressly found that
 3 payment for future services cannot support a finding of BFP status. *McCorkle*, 321 F.3d 1295 n.4
 4 (“This means the only assets that are potentially immunized from forfeiture are those for which
 5 *value has been given*. The ‘value’ given by an attorney is the performance of legal services that
 6 have already been rendered when the attorney receives payment.”). Reliance on this provision
 7 contradicts Ms. Dean’s prior position—that the funds she held were fully earned upon receipt. *See*
 8 *e.g.* ECF No. 258 at p. 18 (“The Receiver has ignored that Ms. Dean earned the \$201,060 before
 9 she ever received notice of the Receivership Order.”).

10 Notwithstanding Ms. Dean’s apparent course reversal, there is no evidence supporting her
 11 contention that she is a bona fide purchaser. A finding of bona fide purchaser status cannot be
 12 based upon mere conclusory arguments made by counsel. *See* 21 USC § 853(n)(6)(B) (requiring
 13 a demonstration that by a preponderance of the evidence, that the petitioner is a bona fide purchaser
 14 for value of the right, title, or interest in the property and was at the time of purchase reasonably
 15 without cause to believe that the property was subject to forfeiture.”) Here, no such evidence was
 16 presented.

17 Moreover, the Ninth Circuit has considered this scenario and found an exacting burden to
 18 be placed upon attorneys in determining the source of the funds used to pay their fees. “An
 19 attorney is an ‘officer of the court’ who, by virtue of his or her professional position, undertakes
 20 certain ‘special duties...to avoid conduct that undermines the integrity of the adjudicative process.’

21 [] These special duties apply with full force to the manner by which an attorney may collect his or
 22 her fee.” *FTC v. Network Servs. Depot, Inc.*, 617 F.3d 1127, 1143 (9th Cir. 2010) (citing
 23 *Commodity Futures Trading Comm’n v. Petro Marketing Group*, 700 F.2d 1279, 1285 (9th Cir.
 24 1983) for the finding that “[a]s an officer of the court, [attorney] was under a duty to inquire as to
 25 the exact terms of the district court’s decision before depositing [his fee] check [in violation of a

26 _____
 27 retain the funds arguing he was a bona fide purchaser and seller of services and further asserting that the
 28 government had induced him to render the services by advising Bailey the government would not seek
 forfeiture. The Court, applying a clearly erroneous standard, affirmed the district court’s denial of Bailey’s
 petition to retain the funds he had received from the McCorkles.

1 contemporaneous injunction].”). Under this heightened standard, attorneys are not permitted to
 2 turn a blind eye to the source of their funds nor are they permitted to be willfully ignorant of how
 3 their fees are paid. *Id.* (citing *In re Bell & Beckwith*, 838 F.2d 844 (6th Cir. 1988) (attorney not
 4 entitled to bona fide purchaser status where the circumstances surrounding the payment of his fees
 5 were sufficient to place him on notice that his client’s funds were obtained by fraud.”). Thus,
 6 when an attorney is objectively on notice that their funds may be derived from a pool of frozen
 7 assets, the attorney has a duty of inquiry and to demonstrate that he conducted an inquiry sufficient
 8 to allow him to be “reasonably without cause to believe that the property was subject to forfeiture.”
 9 *Assail*, 410 F.3d at 265.

10 Here, Ms. Dean did not make the requisite showing. Moreover, given that the very nature
 11 of Ms. Dean’s retention centered on the allegations against Judd and involved discovery and
 12 disclosure of his role in the Ponzi-scheme giving rise to this case, Ms. Dean was on notice that the
 13 funds she was provided may be subject to an asset freeze. As such, Ms. Dean was required to
 14 demonstrate, at a minimum, an investigation into the source of the funds sufficient that she could
 15 possess a reasonable belief that the funds were clean. Ms. Dean has not done so.¹⁴ Given that
 16 Ms. Dean was undeniably aware of the allegations in this case and Mr. Judd’s role therein,
 17 Ms. Dean would be hard-pressed to establish, by a preponderance of the evidence, that she was
 18 reasonably without cause to believe the funds would be subject to forfeiture. As a result, Ms. Dean
 19 cannot meet the requirements necessary to establish BFP status. *Assail*, 410 F.3d at 265.

20 What is more, under this theory, Ms. Dean appears to claim an interest in 100% of the
 21 funds she received. Assuming, *arguendo*, this were the case, there would be no funds in which
 22 Ms. Jaroscak or any other third party could assert a claim, nor could Ms. Jaroscak or the Judd
 23 family members control Ms. Dean’s hypothetical disposition of the funds. In other words,
 24 Ms. Dean has argued that she cannot disburse the funds pursuant to demands from her purported
 25 clients while simultaneously arguing that she has earned 100% of the fees. This begs the question:
 26

27 _____
 28 ¹⁴ Given the initial scope of her retention, Ms. Dean cannot candidly assert to the Court that she had no
 idea that the funds she was receiving would be subject to court proceedings, including the Receivership.

1 which is it? Does Ms. Dean claim to have earned 100% of the fees prior to learning of the
2 Receivership? Or, are the fees subject to claims and interests of third parties.

3 The Court’s decision to withhold analysis of the bona fide purchaser arguments has no
4 bearing on this matter as Ms. Dean has not even made a preliminary showing that she is entitled
5 to a finding that she is a bona fide purchaser.

6 **vi. Ms. Dean Was Not Deprived of Due Process**

7 Ms. Dean’s Objection asserts multiple times that she was “deprived” of due process
8 through the instant proceedings. Indeed, Ms. Dean claims to have been deprived of her due process
9 rights (a) through the award of attorneys’ fees¹⁵; (b) by not being awarded a trial and/or evidentiary
10 hearing on these matters¹⁶; (c) through the use of summary proceedings¹⁷; (d) through the denial
11 of her request for interpleader¹⁸; (e) through the Court’s finding that Ms. Dean bore the burden of
12 proof in this matter¹⁹; and (f) by finding that the Receiver complied with Section 754.²⁰ Indeed, it
13 appears Ms. Dean believes that any ruling from the Court that is not in her favor is a deprivation
14 of her due process rights. This is simply not the case.

15 To quash Ms. Dean’s arguments in this respect, this Court need only consider the nature
16 and purpose of the Receiver’s Motion to Compel. As this Court is aware, the Receiver’s role is to
17 marshal and preserve the assets of the Receivership Estate. To facilitate this purpose, the Receiver
18 has been tasked with protecting assets necessary to reimburse the victims of the fraud to the
19 greatest extent possible. Included within this arsenal is the Asset Freeze and the Turnover
20 Provision. ECF No. 88.

21 At the time the Motion to Compel was drafted and filed, this Court had already addressed
22 the issue of whether funds transferred from defendants to attorneys are subject to the Asset Freeze
23 and Turnover provision. In each instance, the Court ruled in favor of the Receiver and compelled

24 _____
15 ECF No. 380 at p. 7.

25 16 *Id.* at p. 12, 15.

26 17 *Id.* at p. 13.

27 18 *Id.* at p. 18.

19 *Id.* at p. 20.

28 20 ECF No. 380 at p. 23.

1 the turnover of any and all funds in the possession of the respective counsel. With that background,
 2 the Receiver worked diligently to recover the Receivership funds held by Ms. Dean without
 3 judicial intervention, albeit to no avail. As a result, the Receiver filed the Motion to Compel
 4 seeking an order directing Ms. Dean to comply with the terms of the Appointment Order, including
 5 the turnover provision.

6 In making an argument that Ms. Dean was deprived of her due process rights or her right
 7 to trial, Ms. Dean is actually arguing (as she did in her previous filings²¹) that a summary
 8 proceeding is inappropriate in this context. Ms. Dean even asserts that she has been denied a trial
 9 on this matter. However, as noted in the Order, the case law on this issue is clear—summary
 10 proceedings are appropriate to administer assets under the administrative control of the Receiver.
 11 ECF No. 368 at p. 18; *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 460-61 (9th Cir. 1984)
 12 (“[T]he traditional rule is that summary proceedings are appropriate and proper to protect equity
 13 receivership assets”); *S.E.C. v. American Capital Investments, Inc.*, 98 F.3d 1133, 1146 (9th Cir.
 14 1996) (“For the claims of nonparties to property claimed by receivers, summary proceedings
 15 satisfy due process so long as there is adequate notice and opportunity to be heard.”). Thus,
 16 Ms. Dean’s due process rights were satisfied when she was served with the Motion to Compel and
 17 afforded an opportunity to file responsive pleadings, which she did. ECF No. 368 at p. 18.

18 Glaringly absent from the Objection is any authority to counter the Court’s express finding
 19 that Ms. Dean was not deprived of her due process rights through the Motion to Compel. There
 20 was no error by the Magistrate Judge in this regard.

21 **vii. The Award of Attorneys’ Fees is Appropriate and Warranted in This**
 22 **Case**

23 Fees were awarded to the Receiver because of Ms. Dean’s delays and gamesmanship that
 24 came at a significant expense to the estate. The Magistrate’s Order provides “[h]aving considered
 25 the facts and positions of the parties, the Court agrees that fees and costs are warranted.”
 26 ECF No. 368 at p. 19. The Court relies upon *Federal Trade Commission v. Consumer Defense*
 27 *LLC*, Case No. 2:18-cv-0030-JCM-PAL, 2019 WL 861385, at **2-3 (D. Nev. Feb. 22, 2019) for

28 ²¹ ECF No. 259 at p. 7.

1 the finding that attorney’s fees are warranted to replenish the receivership estate following the
2 filing of unnecessary motions. Through her Objection, Ms. Dean argues that the Court erred in
3 relying upon the *Consumer Defense* case because “Ms. Dean was placed in a legal vice where her
4 five (5) Clients and two (2) contract Attorneys with Attorney’s Liens demanded she not part with
5 the funds in her Trust account.” ECF No. 380 at p. 18. Ms. Dean further argues “[f]or the
6 Magistrate to suggest that Ms. Dean was frivolous or wasting judicial resources by complaining
7 of the improper legal vice the Receiver knowingly created without any evidence to meet his burden
8 of proof lacks foundation.” *Id.*

9 The basis of Ms. Dean’s objection to the award of attorneys’ fees is incorrect. First,
10 Ms. Dean misinterprets the *Consumer Defense* case. Contrary to Ms. Dean’s assertion, the Court
11 did not award sanctions and attorneys’ fees, but instead cautioned of such future ramifications
12 should the litigant continue any further vexation litigation. What is more, Ms. Dean improperly
13 asserts that she was placed in a “legal vice” wherein she could not comply with the Receiver and
14 comply with her clients’ purported demands. However, as noted in the Magistrate’s Order, the
15 record in this case is devoid of any credible evidence demonstrating any such purported demand.
16 The “new” letter by an attorney previously disciplined for her lack of candor and manipulation of
17 client funds does not change the analysis even if it was properly presented. Additionally, any
18 claimed “legal vice” was the result of Ms. Dean’s own actions and/or inactions. As noted in the
19 Motion to Compel, the Receiver spent months working to obtain Ms. Dean’s compliance and
20 despite her representations, Ms. Dean never filed a motion with the Court seeking to retain the
21 funds at issue. The Magistrate took note of this, stating:

22 “Ms. Dean has not adhered to the process two other attorneys in this case
23 followed when moving for an order allowing them to retain attorneys’ fees
24 they argued were lawfully received. ECF No. 164 at 3. Instead, Ms. Dean
25 asserts that there is a distinction between herself and these attorneys because
26 the burden is on the Receiver to demonstrate that the \$201,060 at issue are
in fact receivership property. ECF No. 259 at 11. Ms. Dean is incorrect,
and the Court against rejects Ms. Dean’s argument.”

27 ECF No. 368 at p. 19.

28 ///

1 Thus, based on the undisputed background of this dispute, Ms. Dean caused substantial
2 delays and her refusal to comply with this Court’s orders or, at a minimum, file a motion to retain
3 fees, necessitated the Motion to Compel proceedings. That is to say, to the extent there was a
4 “legal vice” (if any such scenario exists) it was created by Ms. Dean—not the Receiver.

5 Certainly, blatant and unjustified refusal to cooperate with the Receiver and the applicable
6 Court mandates runs afoul of the purpose of a Receivership—to marshal and preserve the assets
7 for the benefit of the victims. That is, in this case, Ms. Dean’s dilatory and unwarranted behavior
8 and her vexatious litigation tactics have diminished the amount of funds available to make the
9 victims whole. For that reason, the Order provides for an award of all fees and costs incurred in
10 bringing the Motion to Compel.

11 The award of attorneys’ fees in this case comes down to Ms. Dean’s failure to following
12 valid orders from this Court and her subsequent gamesmanship regarding the same. For months,
13 the Receiver attempted to work with Ms. Dean while she presented numerous excuses and
14 misrepresentations regarding her intended actions. This served to thwart the Receiver’s efforts to
15 recover the Receivership funds she possessed. In creating such a roadblock, Ms. Dean caused the
16 Receiver to unnecessarily expend Receivership resources in moving this Court for Ms. Dean’s
17 compliance which should have occurred from the outset.

18 **viii. An Additional Award of Attorneys’ Fees is Warranted With Respect to**
19 **Ms. Dean’s Objection**

20 Despite being faced with an award of attorneys’ fees and costs incurred as a result of her
21 failure to comply with Court orders, Ms. Dean submitted the instant Objection, seeking to take a
22 second bite at the apple. As noted herein, this Objection provides this Court with no new authority
23 nor does this Objection demonstrate that the Magistrate’s Order was clearly erroneous. The local
24 rules specifically warn litigants that:

25 Motions for reconsideration are *disfavored*. A movant must not
26 repeat arguments already presented unless (and only to the extent)
27 necessary to explain controlling, intervening law or to argue new
28 facts. *A movant who repeats arguments will be subject to appropriate sanctions.*

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)

1 LR 59-1(b) (emphasis added). In filing the instant Objection, which presents no new facts, fails
2 to identify any clear error committed by the Court, and does not address controlling, intervening
3 law, *cf.* LR 59-1(a), and instead merely “repeats arguments,” Ms. Dean has further wasted
4 Receivership Assets by way of the attorneys’ fees incurred in connection with this response. That
5 being the case, a second award of attorneys’ fees incurred by the Receiver in defending against
6 Ms. Dean’s Objection is an appropriate sanction and warranted under LR 59- 1(b).

7 **IV. CONCLUSION**

8 The Magistrate Judge’s decision was not clearly erroneous and there is no legal basis for
9 the relief requested. Accordingly, based on the foregoing, the Receiver respectfully requests this
10 Court enter an order overruling Ms. Dean’s Objection and affirming the Magistrate’s
11 November 17, 2022 Order (ECF No. 368). Additionally, the Receiver requests this Court enter an
12 order awarding the Receiver the fees incurred in responding to Ms. Dean’s Objection, to be
13 established via a separate filing following Court approval of the same.

14 DATED this 15TH day of December, 2022.

15 **GREENBERG TRAUIG, LLP**

16 By: */s/ Kara B Hendricks*

17 KARA B. HENDRICKS, Bar No. 07743
18 JASON K. HICKS, Bar No. 13149
19 KYLE A. EWING, Bar No. 014051

20 JARROD L. RICKARD, Bar No. 10203
21 KATIE L. CANNATA, Bar No. 14848
22 **SEMENZA KIRCHER RICKARD**

23 DAVID R. ZARO*
24 JOSHUA A. del CASTILLO*
25 MATTHEW D. PHAM*

26 *admitted pro hac vice
27 **ALLEN MATKINS LECK GAMBLE**
28 **MALLORY & NATSIS LLP**

Attorneys for Receiver Geoff Winkler

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)

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

CERTIFICATE OF SERVICE

I hereby certify that, on the **15TH day of December, 2022**, a true and correct copy of the foregoing was filed electronically via the Court’s CM/ECF system. Notice of filing will be served on all parties by operation of the Court’s CM/ECF system, and parties may access this filing through the Court’s CM./ECF system and by serving via email by United States first class mail, postage pre-paid on the parties listed below:

Kamille Dean
kamille@kamilledean.com
LAW OFFICES OF KAMILLE DEAN
4545 N. 36th Street, Suite 202
Phoenix, Arizona 85018

/s/ Evelyn Escobar-Gaddi
An employee of GREENBERG TRAUIG, LLP

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)