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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MATTHEW WADE BEASLEY; BEASLEY LAW GROUP PC; 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; ROLAND TANNER; LARRY JEFFERY; JASON A. JENNE; SETH JOHNSON; CHRISTOPHER M. MADSEN; RICHARD R. MADSEN; MARK A. MURPHY; CAMERON ROHNER; AND WARREN ROSEGREEN;

Defendants; and

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

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO AMEND PRELIMINARY INJUNCTION ORDER.

INTRODUCTION

Plaintiff Securities and Exchange Commission (the "SEC") respectfully requests that the Court enter an amended preliminary injunction and asset freeze order that includes the eight defendants newly added to the SEC's Amended Complaint. Like certain of the original defendants, the eight newly added defendants—Larry Jeffery, Jason Jenne, Seth Johnson, Christopher Madsen, Richard Madsen, Mark Murphy, Cameron Rohner, and Warren Rosegreen (collectively herein, the "New Defendants")—worked as promotors for the "purchase agreement" investment scheme and obtained, collectively, at least $40 million dollars in investor assets in violation of the federal securities laws. Extending the preliminary injunction and asset freeze to the New Defendants is necessary to ensure that the New Defendants do not continue to violate the federal securities laws, and so that any remaining investor monies they have retained are not dissipated during the pendency of this lawsuit.

STATEMENT OF FACTS

I. THE NEW DEFENDANTS

Larry Jeffery ("Jeffery") is a resident of Laguna Beach, California. At all relevant times, Jeffery owned and controlled at least two shell companies, FD Consulting Corp. and Capital Core Financial, Inc. (*See* Ex. A, Declaration of Joni Ostler ("Ostler Decl.") ¶¶ 6–7.) **Jason A. Jenne** ("Jenne"), is a resident of Las Vegas, Nevada. At all relevant times, Jenne owned and controlled J & D Consulting Firm Inc., a shell company. (*Id.* ¶ 21.) **Seth A. Johnson** ("Johnson") is a resident of Gilbert, Arizona. At all relevant times, Johnson owned shell company Prestige Consulting LLC (d/b/a Prestige Legal Funding) with New Defendant Cameron Rohner. (*Id.* ¶¶ 31–32.) **Christopher M. Madsen** ("C. Madsen") is a resident of Henderson, Nevada. At all relevant times, C. Madsen owned and controlled Relief Defendant ACAC, LLC. (*Id.* ¶ 40.) **Richard R. Madsen** ("R. Madsen") is believed to currently be a resident of Kanab, Utah. At all relevant times, R. Madsen owned and controlled at least four shell companies, including Red Hills Investments, Inc., Battle Born Funding LLC, Ruger Investments Inc, and Ruger Investments RM Inc. (*Id.* ¶¶ 57–60.) **Mark A. Murphy** ("Murphy") is a resident of

Henderson, Nevada. At all relevant times, Murphy owned and controlled at least two shell companies, American Colocation Services, LLC and Black Rock Business Services, LLC. (*Id.* ¶¶ 73–74.) **Cameron Rohner** ("Rohner") is a resident of Gilbert, Arizona. At all relevant times, Rohner owned and controlled shell company CR6 LLC and co-owned and controlled Prestige Consulting LLC (d/b/a Prestige Legal Funding) with Defendant Johnson. (*Id.* ¶¶ 31–32.) **Warren Rosegreen** ("Rosegreen") is a resident of Henderson, Nevada. At all relevant times, Rosegreen owned and controlled Relief Defendant Triple Threat Basketball, LLC. (Dkt. No. 2-5, Ostler Decl. ¶ 58 & Ex. 38; Ex. A, Ostler Decl. ¶ 78.)

II. THE NEW DEFENDANTS' ROLE IN THE FRAUDULENT "PURCHASE AGREEMENT" INVESTMENT SCHEME.

Beginning in at least 2017 and continuing through at least March 2022, Defendant Jeffrey Judd, directly and through the Defendant J&J Entities,[1] along with Defendant Christopher Humphries, who worked for Judd as a promoter, offered investments in purported personal injury settlement contracts called "Purchase Agreements." (*See* Dkt. No. 2-5, Ostler Decl. ¶¶ 21–22 & Ex. 11, ¶¶ 23–25, 27–30 & Exs. 13–18, ¶ 31 & Ex. 19, ¶¶ 32–33.) When promoting this investment scheme, Judd represented to investors that he had started a litigation financing business with his attorney, Defendant Matthew Beasley of Beasley Law Group PC, whereby Judd invested money in contracts with personal injury plaintiffs while Beasley procured those contracts through his relationships with other attorneys around the country. Judd also told investors he was responsible for raising funds for the business, and that Beasley was responsible for supplying the settlement contracts. (*See id.* ¶ 33, Exs. 11, 15.)

Judd described the investment opportunity business to investors as follows: An injured party would receive a settlement from an insurance company and would want to obtain a portion of the settlement funds before the settlement check arrived. To do so, the injured party, through a

[1] The J&J Entities are Defendants J&J Consulting Services, Inc. (an Alaska corporation); J&J Consulting Services Inc. (a Nevada corporation), and J and J Purchasing LLC.

personal injury attorney, would enter into a settlement contract called a "Purchase Agreement" with one of the J&J Entities. The contracting J&J Entity would advance funds, which the injured party purportedly repaid 90 days later plus interest and fees. (Dkt. No. 2-5, Ostler Decl. ¶¶ 23, 25, 33 & Exs. 11, 12, 7, 9, 15.) Judd further represented that investors could invest in a settlement contract for $80,000 or $100,000 dollars, and would receive a 12.5% return (and sometimes more) in 90 days. (*Id.*) According to Judd, the investor's principal would automatically be reinvested in a new settlement contract, such that investors would receive an annual return of at least 50%. (*Id*. ¶ 33 & Ex. 19 (Gibbs Decl.) Ex. 12.)

In addition to Humphries, Judd retained other promoters, including New Defendants Jeffery, Jenne, Johnson, C. Madsen, R. Madsen, Murphy, Rohner, and Rosegreen, to solicit additional investors to purchase interests in the investment scheme. (*See* Ex. A, Ostler Decl. ¶¶ 8–20 (Jeffery); *id*. ¶¶ 23–30 (Jenne); *id*. ¶¶ 33–39 (Johnson and Rohner); *id*. ¶¶ 41–56 (C. Madsen); *id*. ¶¶ 61–72 (R. Madsen); *id*. ¶¶ 75–77 (Murphy); *id*. ¶¶ 79–84 (Rosegreen).) Operating principally through word of mouth, the New Defendants collectively sold hundreds of purported tort settlement contracts to investors and received commissions (of up to at least 44 percent) on each contract sold, primarily through the various shell companies they controlled. (*See generally id*.) In total, the New Defendants received over **$40 million** in disbursements from the investment scheme, at least a portion of which were commissions from their solicitation of investors. (*See* Ex. B, Declaration of Amir Salimi ("Salimi Decl.") ¶ 11.)

New Defendants Jeffery and Rosegreen generally instructed investors to wire their investment funds to the Beasley Law Group's IOLTA at Wells Fargo Bank N.A. (Ex. A, Ostler Decl. ¶¶ 13, 17, 83.) New Defendants Jenne, C. Madsen, R. Madsen, Johnson, Rohner, and Murphy instructed investors to send their investment money directly to accounts held by shell companies these New Defendants controlled, and these New Defendants would then send the investor funds to the Beasley Law Group IOLTA themselves. (*Id*. ¶¶ 30, 36, 50, 54–56, 67, 72, 77.) Bank records for the Beasley Law Group's IOLTA and the J&J Entities indicate that Beasley, Judd, and/or promoter Shane Jager (in the case of Rohner and Johnson) would then

send funds back to the shell companies controlled by the New Defendants for payment of investor "returns" and commission payments. (*See id.*)

Until about December 2021, the New Defendants generally gave prospective investors copies of the alleged tort settlement contracts and an "investment agreement" to sign, which included a clause prohibiting the investor from contacting the fictitious plaintiff or his or her lawyer (generally a real plaintiff's tort lawyer that Beasley would find using internet searches) without Judd's written consent. In or around December 2021, Judd required the New Defendants to distribute more formal offering documents, including a private placement memorandum, to both new and existing investors. (*See* Ex. A, Ostler Decl. ¶¶ 16 & Ex. 6, *id.* ¶¶ 37, 43, 47, 52, 69.) With the exception of New Defendants Jenne, Rohner, and Johnson, the New Defendants asked investors to sign and return a subscription agreement, an investor questionnaire, and new nondisclosure and non-compete agreements (which, as before, prohibited the investors from contacting the fictitious plaintiffs or their lawyers), to which Defendant J and J Purchasing was the counterparty.[2] (*Id.*)

In some instances, certain of the New Defendants had investors enter into investment agreements directly with one of the entities they controlled. For example, Jeffery had investors he solicited enter into investment agreements with the entities he controlled, Capital Core Financial and FD Consulting. (Ex. A, Ostler Decl. ¶¶ 11–12 & Exs. 3, 4.) These agreements stated that Jeffery and his entity were acting as representatives of J&J Consulting and Judd. (*Id.*) Both Jeffery and Judd signed these Letter Agreements (Jeffery on behalf of his entity, and Judd on behalf of J&J Consulting). (*Id.*) Likewise, Rohner and Johnson had investors they solicited

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[2] Johnson executed the new offering documents on behalf of Prestige Consulting and continued to sell interests to investors through Prestige Consulting without asking investors to review or sign the new J and J Purchasing documents. (Ex. A, Ostler Decl. ¶ 37.) Jenne executed the offering documents on behalf of his entity J&D Consulting Firm, Inc., and did not forward the documents to his investors. (*Id.* ¶ 16 & Ex. 23.)

enter into investment agreements with Prestige Consulting LLC. (*Id*. ¶¶ 33–34 & Ex. 32.) These agreements stated that Prestige Consulting was the seller of the interest in the purported settlement agreements, and made no mention of J&J Consulting or Judd as the ultimate source of the settlement agreements. (*See id*.) Prestige Consulting would separately buy the purported settlement agreements from J&J Consulting. (Ex. A, Ostler Decl. ¶ 35.) Prestige Consulting would pass a portion of the returns through to their investors, and Rohner and Johnson would keep a portion of the returns. (*Id*. ¶¶ 35–36.)

Each of the New Defendants received significant commission payments for their solicitation of investors into the scheme. (*See* Ex. A, Ostler Decl. ¶¶ 14–15, 18 (Jeffery); *id*. ¶¶ 27–28 (Jenne); *id*. ¶ 35 (Johnson and Rohner); *id*. ¶ 53 (C. Madsen); *id*. ¶ 68 (R. Madsen); *id*. ¶ 77 (Murphy); *id*. ¶ 83 (Rosegreen).) Typically, these payments would be a percentage of the "returns" paid out to investors through Beasley or Judd's accounts: in addition, some of the New Defendants misrepresented or underrepresented the purported returns from the investments, and kept a portion of the returns made by the investors they solicited for themselves. For example, Jenne represented to the investors he solicited that the return on their investment was 10 percent quarterly (rather than the 12.5 percent represented by Judd and Humphries) and then pocketed the difference. (Ex. A, Ostler Decl. ¶ 27 & Exs. 24, 25, 26, 27.) Jenne justified this by claiming that if investors knew what Judd was offering, they would "want more" and be "greedy." (*Id*. ¶ 27 & Ex. 25.) Likewise, Johnson and Rohner, who operated in part through their shell company Prestige Consulting LLC, generally paid investors "returns" of only 8 percent quarterly. (*Id*. ¶ 34.) And New Defendant R. Madsen told at least one investor that the investor would receive returns of 7 percent quarterly, and then—once the investor learned, in December 2021, that other investors were being paid up to 12.5 percent quarterly returns—represented to the investor that going forward R. Madsen and his brother C. Madsen would be making less commissions and that investors would be making even more money. (*Id*. ¶¶ 49, 53.)

As detailed in the SEC's earlier motion for a temporary restraining order and asset freeze, and contrary to representations made by Defendants to investors both orally and in distributed

written materials, there was no network of personal injury attorneys and no settlement agreements supporting the investment scheme. For example, an investor solicited by Defendant Humphries was given a "Purchase Agreement" with the name of a local attorney and that attorney's purported "slip and fall" client. However, as attested to by the attorney named in the "Purchase Agreement," the attorney never had a client of that name, and never entered into any such agreement with J&J Consulting Services. (Dkt. No. 2-5, Ostler Decl. ¶¶ 18–19 and Ex. 6.) Likewise, when a confidential source who was solicited by Humphries and given copies of Purchase Agreements showing the attorneys as parties to the agreements, telephoned those attorneys, those attorneys and their law firm staff were unable to locate any records of either the Purchase Agreements or the clients listed on the Agreements. In essence, the attorneys indicated that the Purchase Agreements were fake. (*Id.* ¶ 23.)

In addition, accounting analysis of the Beasley IOLTA Account—the account that appears to have been the central hub for the investment funds entering the scheme—indicates that there were no transactions consistent with investment activities, including investments in litigation settlements. (*See* Dkt. No. 2-8, Salimi Decl. ¶¶ 12–13.) Instead, the Beasley Account shows a pattern of repeated deposits in increments of $40,000, $50,000, $80,000 or $100,000 (the typical investment amounts for investors in the "purchase agreement" scheme) followed by immediate transfers to those Defendants involved in promoting the scheme. (*Id.* ¶ 12.) Between January 2017 and March 15, 2022, approximately $487 million was disbursed from the Beasley Account—and there is no indication that any of those account transactions are consistent with making disbursements to litigation plaintiffs or their lawyers (as purportedly was being done as part of the investment scheme). (*Id.* ¶ 13.) Instead, most of the money (approximately $411 million, or 84 percent of the total funds disbursed from the Beasley Account) was disbursed to Defendants (including the New Defendants) and Relief Defendants. (*Id.* ¶ 14.) For example, New Defendant Jeffery received disbursements of $2.4 million; Johnson received personal disbursements of at least $1.8 million, along with $1.5 million to the Prestige Consulting account he and Rohner controlled; Rohner received personal disbursements of at least $1.1 million; Jenne

received disbursements of at least $3.1 million; C. Madsen received disbursements of at least $12.3 million; R. Madsen received disbursements of at least $5.8 million; Murphy received disbursements of at least $4.8 million; and Rosegreen received disbursements of at least $12.4 million. (Ex. B, Salimi Decl. ¶ 11.)

On March 3, 2022, FBI agents attempted to execute a search warrant at Beasley's home. (Dkt. No. 2-5, Ostler Decl. ¶ 6.) During the ensuing standoff, Beasley spoke with an FBI agent negotiator in a series of telephone calls. (*Id*.) Recordings of those calls were provided to SEC staff by the FBI. In the calls, Beasley confessed that since 2016 or 2017 he ran a "Ponzi scheme" related to personal injury settlements, which he started because he had gambling debts. (*Id*. at Ex. 1, Beasley Tr. at 6:14-15; 19:23-22:9, 33:10.) Beasley said that investors were promised that their money would be given to someone who had settled a personal injury case but had not received their settlement money yet. (*Id*. at Ex. 2, Beasley Tr. at 33:9-23.) Beasley admitted that he "got names of attorneys" for the scheme but "never actually talked to them." (*Id.* at Ex. 2, Beasley Tr. at 32:19–20.) Beasley said that as Judd found more investors, "I made up more attorney's deals and just kept growing it." (*Id.* at Ex. 2, Beasley Tr. at 14:21–23.) Beasley admitted that investors "would give their money to me, and I would supposedly send it to a bunch of attorneys" but actually "I kept it and used it to pay, basically pay them back to pay off gambling debts," including to his bookie, Relief Defendant Anthony Alberto, Jr. (*Id.* at Ex. 2, Beasley Tr. at 15:5–16:13.)

III. THE NEW DEFENDANTS' ATTEMPTS TO LIQUIDATE ASSETS.

Following the March 3, 2022 standoff between Beasley and the FBI, and the SEC's subsequent filing of this action against the original defendants and relief defendants, the New Defendants have taken steps to liquidate or otherwise transfer assets. On March 25, 2022, less than three weeks from the date of Beasley's arrest, R. Madsen sold his home in Nevada for $2 million and moved to Utah. (Ex. A, Ostler Decl. ¶ 89.) R. Madsen also proceeded to drain funds from his shell companies' accounts: between the date of Beasley's arrest and April 30, 2022 (the last date on which the Commission has information), R. Madson has withdrawn or transferred

over $35,800 from Ruger Investments and over $14,000 from Red Hills Investments, and has posted his 2021 Ram 3500 Limited truck for sale for $98,000. (*Id.* ¶¶ 90–93.) Likewise, from March 3, 2022, the date of Beasley's arrest, to March 31, 2022, C. Madsen withdrew $190,000 from the account for his shell company ACAC, LLC, made payments totaling over $32,000 to credit cards, and transferred over $77,000 to entities controlled by his brother R. Madsen. (*Id.* ¶ 88.) The Commission has also learned that C. Madsen recently sold his warehouse of classic cars for at least $1 million.

Since Beasley's arrest, Rohner has transferred or withdrawn $71,000 from the account in the name of his shell company CR6 LLC. There is also an electronic withdrawal of $114,000, the date and recipient of which Rohner redacted. (*Id.* ¶ 93.) Jeffery, meanwhile, currently has a home listed for sale for $4.65 million—and reduced the asking price by $175,000 on June 14, 2022. (*Id.* ¶ 85.) Between the date of Beasley's arrest on March 3 and April 30, 2022, Jeffery has also transferred or spent at least $62,100 from the account of his shell company FD Consulting. (*Id.* ¶ 86.) Jenne, meanwhile, has withdrawn or transferred $387,821 from the account of his shell company J&D Consulting since Beasley's arrest. (*Id.* ¶ 87.) And bank records for Murphy's shell company American Colocation show that, since Beasley's arrest, Murphy has refunded $600,000 to certain investors, moved $13,000 into a Fidelity Investments account, and allowed investors to continue to cash checks for fictitious investment returns, and cashed his own fictitious investment return checks totaling over $47,000. (*Id.* ¶ 94.)

ARGUMENT

I. THE COURT'S PRELIMINARY INJUNCTION SHOULD BE EXTENDED TO THE NEW DEFENDANTS.

Section 20(b) of the Securities Act of 1933) and Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") authorize the SEC to obtain a preliminary injunction or other temporary relief without a bond. *See* 15 U.S.C. §§ 77t(b) & 78u(d). In general, a plaintiff seeking a preliminary injunction must "demonstrate 'that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of

equities tips in his favor, and that an injunction is in the public interest.'" *SEC v. Banc de Binary Ltd.*, 964 F. Supp. 2d 1229, 1232 (D. Nev. 2013), quoting *Stormans, Inc. v. Selecky*, 586 F. 3d 1109, 1127 (9th Cir. 2009); *see Winter v. NRDC*, 555 U.S. 7, 20 (2008). In SEC actions, the SEC need only make a two-prong showing: (1) a *prima facie* case that defendants have violated the federal securities laws, and (2) a reasonable likelihood that the defendants will repeat their violations. *See, e.g., SEC v. Blockvest, LLC*, No. 18CV2287-GPB(BLM), 2019 WL 625163, at *4 (S.D. Cal. Feb. 14, 2019). That is because the SEC appears "not as an ordinary litigant, but as a statutory guardian charged with safeguarding the public interest in enforcing the securities laws." *SEC v. Management Dynamics, Inc.*, 515 F.2d 801, 808 (2d Cir. 1975). This enforcement action is brought in the public interest, and thus, the Court's "equitable powers assume an even broader and more flexible character than when only a private controversy is at stake." *FSLIC v. Sahni*, 868 F.2d 1096, 1097 (9th Cir. 1989) (quoting *FTC v. H.N. Singer, Inc.*, 668 F.2d 1107, 1112 (9th Cir. 1982)).

A. The SEC Has Made A *Prima Facie* Showing That The New Defendants Have Violated The Federal Securities Laws.

The SEC has made a *prima facie* showing that the New Defendants have violated both the registration provisions of Sections 5(a) and (c) of the Securities Act, and the broker registration provisions of Section 15(a)(1) of the Exchange Act.

1. The New Defendants Violated the Registration Provisions of Sections 5(a) and 5(c) of the Securities Act.

First, each of the New Defendants violated the registration provisions of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a), (c)] by offering and selling securities (the litigation finance "Purchase Agreements") without a registration statement as to those securities and without a valid exception to such registration. To establish such a violation, the SEC must demonstrate that the New Defendants, directly or indirectly, offered or sold securities without a registration statement having been filed or in effect. *See SEC v. International Chem. Dev. Co.*, 469 F.2d 20, 27 (10th Cir. 1972). "The elements of [an] action for violation of Section 5 are (1)

lack of a registration statement as to the subject securities; (2) the offer or sale of the securities; and (3) the use of interstate transportation or communication and the mails in connection with the offer or sale." *Europe & Overseas Commodity Traders, S.A. v. Banque Paribas London*¸147 F.3d 118, 124 (2d Cir. 1998) (quoting *In re Command Credit Corp.*, No. 3-8674, 1995 SEC LEXIS 989, at *2 (S.E.C. Apr. 19, 1995)). Section 5 is a strict liability offense, and thus Defendants' state of mind does not provide any exception to Section 5's registration requirements. *Aaron v. SEC*, 446 U.S. 680, 714 n.5 (1980); *SEC v. Parkersburg Wireless Ltd. Liab. Co.*, 991 F. Supp. 6 at 9 ("whether [defendant] was an unwitting participant in this complex scheme [is] of no moment"). As discussed at length in the SEC's memorandum in support of temporary emergency relief as to the original defendants, the "purchase agreements" offered and sold by the New Defendants are securities. (*See* Dkt. No. 2-1, Mem. at 12–13.) The New Defendants never filed a valid registration statement as to those securities, and no exemption to the registration provisions applies. (*See id*., Mem. at 16–19.) As described above and detailed in the accompanying Declaration of Joni Ostler, each of the New Defendants (in roles as promotor and solicitor) offered and sold securities to investors. That is sufficient to state a *prima facie* case for violations of Section 5 as to each of the Defendants.

2. The New Defendants Also Violated The Broker Registration Provisions of Section 15(a)(1) of the Exchange Act.

The SEC has also made a *prima facie* case that the New Defendants violated the broker registration provisions of Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by each soliciting at least dozens of investors to invest in the "purchase agreements" and by being paid for that solicitation in the form of transaction-based compensation, all without being registered as a broker or being associated with a registered broker.

Section 15(a)(1), makes it unlawful for a broker "to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security" unless registered with the SEC. *See* 15 U.S.C. § 78o(a)(1). Section 15(a), like Securities Act Section 5, is strict liability statute; and proof of

the New Defendants state of mind is not required. *SEC v. Interlink Data Network*, No. 93 3073 R, 1993 WL 603274, *10 (C.D. Cal. Nov. 15, 1993).

Exchange Act § 3(a)(4)(A) defines "broker" as "any person engaged in the business of effecting transactions in securities for the account of others." 15 U.S.C. § 78c(a)(4)(A); *see also* 15 U.S.C. § 78c(a)(9) (defining "person" to include a company). This definition "should be construed broadly" and exemptions should be 'narrowly drawn in order to promote both investor protection and the integrity of the brokerage community.'" *In the Matter of Frederick W. Wall*, Exchange Act Release No. 52467, 2005 SEC LEXIS 2380, *8 n.9 (Sept. 19. 2005) (Comm. Op.) (quoting Exchange Act Release, No. 22172, 33 SEC Docket 685, 686 (June 27, 1985)).

The Ninth Circuit, in determining "whether a person has engaged in the business of being a broker," "applies conduct-based factors and a 'totality of the circumstances approach.'" *SEC v. RMR Asset Mgmt. Co.*, 479 F. Supp. 3d 923, 926 (S.D. Cal. 2020), quoting *SEC v. Feng*, 935 F.3d 721, 731 (9th Cir. 2019). These factors, called the "*Hansen* factors," consider whether the person, for example, received transaction-based income (such as commissions) as opposed to a salary, and regularly participated in securities transactions.[3] *See Feng*, 935 F.3d at 732; *see also SEC v. Small Bus Capital Corp*., No. 5:12-CV-3237 EJD, 2013 WL 4455850, at *14 (N.D. Cal. Aug. 16, 2013). No one factor is dispositive and a person may have acted as a broker even where only one or two of the factors are met. *See, e.g., SEC v. Collyard*, 154 F. Supp. 3d 781, 789 (D. Minn. 2015) (*reversed on other grounds* 935 F.3d 721 (8th Cir. 2019)).

Courts particularly emphasize two of the *Hansen* factors as most important: (1) regularity of participation in securities transactions and (2) receipt of transaction-based compensation. *See, e.g.*, *SEC v. Bravata*, No. 09–12950. 2009 WL 2245649 at *2 (E.D. Mich. July 27, 2009)

[3] In sum, the *Hansen* factors are whether an individual: "(1) is an employee of the issuer; (2) received commissions as opposed to a salary; (3) is selling, previously sold, the securities of other issuers; (4) is involved in negotiations between the issuer and the investor; (5) makes valuations as to the merits of investment or gives advice; and (6) is an active rather than passive finder of investors." *RMR Asset Mgmt.*, 479 F. Supp. 3d at 926, citing *Hansen*, 1984 WL 2413, at *10.

("regularity of participation [in securities transactions] is the primary indicia of being 'engaged in the business.'") (internal quotations omitted).

Here, the New Defendants each acted as a broker in repeatedly soliciting investors to purchase the "Purchase Agreement" securities. The New Defendants received transaction-based payments for the contracts they sold, solicited numerous investors into the scheme, and sold numerous contracts to numerous investors. (*See* Ex. A, Ostler Decl. ¶¶ 8–20 (Jeffery); *id*. ¶¶ 23–30 (Jenne); *id*. ¶¶ 33–39 (Johnson and Rohner); *id*. ¶¶ 41–56 (C. Madsen); *id*. ¶¶ 61–72 (R. Madsen); *id*. ¶¶ 75–77 (Murphy); *id*. ¶¶ 79–84 (Rosegreen).) None was registered with the SEC as a broker. (*Id*. ¶ 95.) The New Defendants thus violated § 15(a)(1). *See Interlink Data Network*, 1993 WL 603274, at *10.

B. The SEC Has Shown The Violations Are Likely To Be Repeated.

The SEC has also demonstrated a likelihood that the New Defendants' violations will be repeated. Whether a likelihood of future violations exists depends upon the totality of the circumstances. *See SEC v. Murphy*, 626 F.2d 633, 655 (9th Cir. 1980); *Fehn*, 97 F.3d at 1295–96. The existence of past violations may give rise to an inference there will be future violations. *See Murphy*, 626 F.2d at 655; *SEC v. United Financial Group, Inc.*, 474 F.2d 354, 358–59 (9th Cir. 1973). Courts also consider factors such as the degree of scienter involved, the isolated or recurrent nature of the violative conduct, the defendant's recognition of the wrongful nature of the conduct, and the likelihood that, because of the defendant's occupation, future violations may occur. *See Murph*y, 626 F.2d at 655.

Here, the New Defendants' involvement in the fraudulent investment scheme has been ongoing since at least 2017, with funds being raised right up until Beasley's March 2022 standoff with the FBI. Since then, the New Defendants continue to attempt to misappropriate investor funds by liquidating assets, and at least one of the New Defendants has continued to allow certain investors to cash checks for their fictitious returns even after Beasley's arrest. (*See* Ex. A, Ostler Decl. ¶ 94.) A preliminary injunction preventing the New Defendants from continued

violation of the federal securities laws and solicitation of investors is necessary to ensure that these promotors do not continue to inappropriately promote this or any other similar scheme.

II. THE COURT SHOULD EXTEND THE ASSET FREEZE TO THE NEW DEFENDANTS' ASSETS.

In addition to preliminary injunctive relief, the SEC requests that the Court extend its asset freeze to cover the New Defendants' assets. Federal courts have "inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief." *Reebok Int'l, Ltd v. Marnatech Enterprises, Inc.*, 970 F.2d 552, 559 (9th Cir. 1992); *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). The Court's equitable powers include the authority to freeze assets of both parties and nonparties. *See SEC v. Hickey*, 322 F.3d 1123, 1131 (9th Cir. 2003); *SEC v. Int'l Swiss Invest. Corp.*, 895 F.2d 1272, 1276 (9th Cir. 1990). The purpose of a freeze order is to prevent the dissipation of assets so they may be available for the benefit of victims. *See*, *e.g.*, *Hickey*, 322 F.3d at 1132. "[T]he public interest in preserving the illicit proceeds [of a defendant's fraud] for restitution to the victims is great." *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1236 (9th Cir. 1999). "A party seeking an asset freeze must show a likelihood of dissipation of the claimed assets, or other inability to recover monetary damages if relief is not granted." *Johnson v. Couturier*, 572 F.3d 1067, 1085 (9th Cir. 2009).

Here, bank account records confirm that approximately $490 million in funds flowed through the Beasley Account, a large percentage of which appear to be investor funds (which were deposited in round increments of $40,000, $50,000, $80,000 or $100,000, relating to the price of the securities investments Defendants offered and promoted). The bank records confirm that the New Defendants received, collectively, at least $40 million in funds from the scheme that cannot be reasonably tied to any funds other than investor deposits, and that those funds were used to purchase, among other things, multi-million dollar real estate, and luxury vehicles (which the New Defendants have been attempting to liquidate). An asset freeze is necessary to preserve the remaining assets of the New Defendants for investors, and to prevent any further dissipation of funds.

CONCLUSION

For the foregoing reason, the SEC respectfully requests that the Court enter the proposed Amended Preliminary Injunction, attached hereto as Exhibit C, extending the preliminary injunctive and asset freeze relief already ordered as to the original defendants to the New Defendants. (*See* Ex. C, Proposed Order.)

DATED this 29th day of June, 2022.

/s/ Casey R. Fronk
Tracy S. Combs
Casey R. Fronk
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June, 2022, I caused the **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO AMEND PRELIMINARY INJUNCTION ORDER TO INCLUDE NEWLY ADDED DEFENDANTS** to be served to all parties entitled to service through the Court's ECF system and to the following individuals by the means indicated below:

Sent to process server for personal service:

Larry Jeffery
[redacted]
Laguna Beach, CA [redacted]

Jason A. Jenne
[redacted]
Las Vegas, NV [redacted]

Seth Johnson
[redacted]
Gilbert, AZ [redacted]

Christopher M. Madsen
[redacted]
Henderson, NV [redacted]
-OR-
[redacted]
Henderson, NV [redacted]

Richard R. Madsen
[redacted]
Las Vegas, NV [redacted]
-OR-
[redacted]
Duck Creek Village, UT [redacted]
(Kane County, UT, possibly Kanab)

Mark A. Murphy
[redacted]
Henderson, NV [redacted]

Cameron Rohner
[redacted]
Gilbert, AZ [redacted]

Warren Rosegreen
[redacted]
Henderson, NV [redacted]

By U.S. Mail, first class, postage prepaid, to:

BJ Holdings LLC
c/o Beasley Law Group PC, c/o Matthew Wade Beasley
Nevada Southern Detention Center
2190 East Mesquite Avenue
Pahrump, NV 89060

The Judd Irrevocable Trust
c/o Trustee Matthew Wade Beasley
Nevada Southern Detention Center
2190 East Mesquite Avenue
Pahrump, NV 89060

Jason M. Jongeward and JL2 Investments, LLC
[redacted]
Washington, UT [redacted]

PAJ Consulting, Inc
21371 Estepa Cir.
Huntington Beach CA 92648

Triple Threat Basketball, LLC
c/o Warren Rosegreen
[redacted]
Henderson, NV [redacted]

The Judd Irrevocable Trust
c/o Jeffrey Judd
[redacted]
Henderson, NV [redacted]

By email to the following:

Anthony Michael Alberto, Jr. and Monty Crew, LLC
[redacted]

Dyke Huish
Huish Law Firm
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Counsel for Roland Tanner

Daniel Hill
Snow, Christensen & Martineau, P.C.
DDH@scmlaw.com
Counsel for ACAC LLC

/s/ Casey R. Fronk
Casey R. Fronk