

SEALED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

FILED BY _____	D.C.
AUG 12 2024	
ANGELA E. NOBLE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI	

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

Filed Under Seal

WELLS REAL ESTATE INVESTMENT, LLC,  
JANALIE C. JOSEPH  
A/K/A JANALIE C. BINGHAM, and  
JEAN JOSEPH,

Defendants, and

CAMBRIDGE REAL ESTATE MANAGEMENT, LLC,  
60 YACHT CLUB, LLC, 112 SOUTH OLIVE, LLC,  
791 PARKSIDE HOME, LLC, 910 PARKSIDE, LLC,  
930 PARKSIDE, LLC, 976 PALM BEACH SQUARE, LLC,  
1070 BOCA RATON SQUARE, LLC,  
2082 PARADISE PALM, LLC,  
2295 CORPORATE BLVD LLC, 4050 NW, LLC,  
4100 HOSPITAL OFFICE, LLC, 4800 FEDERAL, LLC,  
7352 VALENCIA, LLC, 7483 VALENCIA, LLC,  
BOCA DEERFIELD PROPERTIES, LLC,  
DAYBREAK HOME, LLC,  
GLOBE OFFICES, LLC,  
GLOBE PROPERTY OFFICES, LLC,  
LW SQUARE OFFICE, LLC,  
MARTINIQUEÂ INVESTMENTS LLC  
a/k/a MARTINIQUE'S INVESTMENTS LLC,  
OAKLAND LAND PROPERTY, LLC, and  
SOUTH OLIVE OFFICE, LLC,

Relief Defendants.

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**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S  
EMERGENCY *EX PARTE* MOTION AND  
MEMORANDUM OF LAW FOR APPOINTMENT OF RECEIVER**

Plaintiff Securities and Exchange Commission (the “Commission”) seeks an order appointing a receiver over Wells Real Estate Investment, LLC (“Wells”) and affiliated entities named as relief defendants in this action (the “Relief Defendants”)<sup>1</sup> (collectively, the “Wells Entities”), with full and exclusive power, duty, and authority: to administer and manage the business affairs, funds, tangible and intangible assets, choses in action, and any other property of the Wells Entities; to marshal and safeguard Wells Entities’ assets, and; to take whatever actions are necessary for the protection of defrauded investors in this case.

**I. FACTUAL BACKGROUND**

The Commission incorporates the factual discussion (Section VI) from its Emergency *Ex Parte* Motion for and Memorandum of Law for Asset Freeze and Other Relief (the “Emergency Motion”).

**II. APPOINTMENT OF A RECEIVER IS APPROPRIATE**

A receivership is an equitable remedy that federal courts routinely enlist to effectuate the remedial purposes of the securities laws. *See, e.g., SEC v. First Fin. Group of Texas*, 645 F.2d 429, 438 (5th Cir. 1981) (“the appointment of a receiver is a well-established equitable remedy available to the SEC in its civil enforcement proceedings”); *SEC v. Keller Corp.*, 323 F.2d 397, 403 (7th Cir. 1963) (affirming district court’s appointment of receiver and providing that the “district court was vested with inherent equitable power to appoint a trustee-receiver under the facts of this case. The prima facie showing of fraud and mismanagement, absent insolvency, is enough to call into

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<sup>1</sup> Relief Defendants are: Cambridge Real Estate Management, LLC, 60 Yacht Club, LLC, 112 South Olive, LLC, 791 Parkside Home, LLC, 910 Parkside, LLC, 930 Parkside, LLC, 976 Palm Beach Square, LLC, 1070 Boca Raton Square, LLC, 2082 Paradise Palm, LLC, 2295 Corporate Blvd LLC, 4050 NW, LLC, 4100 Hospital Office, LLC, 4800 Federal, LLC, 7352 Valencia, LLC, 7483 Valencia, LLC, Boca Deerfield Properties, LLC, Daybreak Home, LLC, Globe Offices, LLC, Globe Property Offices, LLC, LW Square Office, LLC, Martinique Investments LLC a/k/a Martinique’s Investments LLC, Oakland Land Property, LLC, and South Olive Office, LLC.

play the equitable powers of the court.”); *see generally* Section 21(d)(5) of the Securities Exchange Act of 1934, 15 U.S.C. §78u(d)(5) (“In any action . . . brought . . . by the Commission under any provision of the securities laws, the Commission may seek, and any Federal Court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”). Appointing a receiver is “particularly necessary in instances in which the corporate defendant, through its management, has defrauded members of the investing public[.]” *First Fin.*, 645 F.2d at 438. “[I]n such cases, it is likely that, in the absence of the appointment of a receiver to maintain the status quo, the corporate assets will be subject to diversion and waste to the detriment of those who were induced to invest...” *Id.*; *see also SEC v. R.J. Allen & Assocs., Inc.*, 386 F. Supp. 866, 878 (S.D. Fla. 1974). A receiver is appropriate when it is obvious that those in control of an entity, who have inflicted serious harm in the past, must be ousted. *See SEC v. Bowler*, 427 F.2d 190, 198 (4th Cir. 1970) (reversing district court’s order denying appointment of receiver and directing district court to appoint receiver for corporate defendants after Commission made a “prima facie showing of fraud and mismanagement[.]” and stating that it “is hardly conceivable that the trial court should have permitted those who were enjoined [in earlier temporary restraining order] to continue to control [corporate defendant’s] affairs for the benefit of those shown to have been defrauded.”).

As detailed in the Emergency Motion, Defendant Wells, its CEO Defendant Janalie C. Joseph, a/k/a Janalie C. Bingham (“Bingham”), and her husband, Defendant Jean Joseph (“Joseph”) (collectively, the “Defendants”), have been operating a fraudulent Ponzi scheme and offering fraud that has raised approximately \$56 million from at least 660 investors. Holding itself out as a real estate company with a \$450 million real estate portfolio, Wells solicits investors nationwide to participate in its real estate business by investing in Wells’ promissory notes, which purportedly pay annual returns ranging from 12% to as high as 33%. Contrary to representations

to investors about the size of its portfolio and use of investor funds, Defendants used only a fraction of investor funds to purchase properties, which are heavily leveraged. Bingham and Joseph diverted at least \$28 million to brokerage accounts in the names of Wells and the Wells Entities, and to engage in speculative options trading that has resulted in losses of approximately \$12 million. Defendants have also used millions of investor funds to make Ponzi-like interest and principal payments to other investors, to pay undisclosed commissions to Wells' network of sales agents, and Bingham and Joseph have diverted millions to themselves. Emergency Motion at Sections IV.C.3-4 and IV.D. Given their misconduct,<sup>2</sup> Bingham and Joseph cannot remain in control of the Wells Entities. *See First Fin.*, 645 F.2d at 438.

Moreover, the Wells Entities own and control many residential and commercial real properties. Emergency Motion at Ex. 1, ¶¶ 5, 7, and 9. Several of those real properties are currently subject to state court foreclosure proceedings brought by lenders.<sup>3</sup> A receiver is needed

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<sup>2</sup> During most of this misconduct, Joseph has been a convicted felon on supervised release. *See U.S. v. Joseph*, S.D. Fla. Case No. 19-20177-CR at DE 39 and 59. Based on recent filings in Joseph's criminal case, a supervised release revocation proceeding was commenced against Joseph, and he stipulated to a \$25,000 bond. *Id* at DE 78. Given the revocation proceeding, it is possible that Joseph will be incarcerated again and will be unable to operate the Wells Entities. This is another reason the appointment of a receiver is appropriate.

<sup>3</sup> *See U.S. Bank Trust Co. N.A. v. Boca Square One LLC*, Palm Beach County Case No. 50-2024-CA-005287-XXXXA-MB (suing Bingham and Wells subsidiary, Boca Square One, LLC, for mortgage foreclosure and damages); *Panorama Capital Inc. v. Bingham*, Palm Beach County Case No. 50-2023-CA-016470-XXXXA-MB (suing Bingham, Wells, and several affiliates/subsidiaries for breach of loan agreement and to enforce collateral agreement); *Best Meridian Ins. Co. v. LW Square Office, LLC*, Broward County Case No. CACE24001992 (suing Bingham and Wells subsidiary LW Square Office, LLC for mortgage foreclosure and damages); *Kiegai LLC v. Boca Deerfield Properties, LLC*, Broward County Case No. CACE24002586 (suing Bingham and Wells subsidiary Boca Deerfield Properties LLC for mortgage foreclosure and damages); *Rosenthal v. 60 Yacht Club LLC*, Palm Beach County Case No. 50-2024-CA-004161-XXXXA-MB (suing Bingham and Wells subsidiary 60 Yacht Club LLC for mortgage foreclosure and damages); *Dolphin Day Lending LLC v. 1070 Boca Raton Square LLC*, Palm Beach County Case No. 50-2023-CA-016541-XXXXA-MB (suing Bingham and Well's subsidiary 1070 Boca Raton Square LLC for mortgage foreclosure and damages).

to administer and manage the Wells Entities' business affairs, funds, tangible and intangible assets, choses in action, and any other property of the Wells Entities, marshal and safeguard the Wells Entities' assets, and to take whatever actions are necessary for the protection of defrauded investors.

Courts in this district have entered similar orders appointing receivers in recent Commission cases involving violations of the antifraud provisions of the federal securities laws. *See SEC v. Complete Business Solutions Group, Inc.*, No. 20-CIV-81205, 2020 WL 9209280 (S.D. Fla. July 31, 2020); *see also id.* at DE 141; *SEC v. Royal Benghal Logistics, Inc.*, No. 23-61179-CIV, DE 11 (S.D. Fla. June 21, 2023); *SEC v. BKCoin Mgmt., LLC*, No. 23-20719-CIV, DE 8 (S.D. Fla. Feb. 24, 2023); *SEC v. Kapoor*, No. 23-24903-CIV, DE 28 (S.D. Fla. Jan. 12, 2024).

### **III. THE COMMISSION'S RECEIVER RECOMMENDATION**

To facilitate the Court's consideration and appointment a receiver, the Commission's staff has solicited expressions of interest from three potential receivers, Andrés Rivero, David Mandel, and Michael Budwick, it believes are well-suited and available to handle this matter, and the credentials of these candidates are attached as Exhibits 1, 2, and 3. After considering these candidates, the Commission's staff believes the interests of defrauded investors would best be served by the appointment of Andrés Rivero to serve as Receiver for the Wells Entities.

Mr. Rivero, whose credentials are attached as Exhibit 1, is a partner at the law firm Rivero Mestre LLP. He has extensive experience in complex civil financial and fraud litigation, including in Commission regulatory matters, and in criminal fraud matters and receiverships. Mr. Rivero has also represented bankruptcy trustees and receivers, and served for five years as a federal prosecutor with the U.S. Attorney's Office for the Southern District of Florida, and while there, was assigned to, among others, the Economic Crimes and Public Corruption sections.

If appointed as Receiver, Mr. Rivero will utilize attorneys at Rivero Mestre LLP, relying primarily on Jorge Mestre and Amanda Fernandez to assist him as counsel in this matter. Mr. Mestre has extensive experience litigating complex financial cases, including banking, accounting malpractice, and directors and officers liability lawsuits. Ms. Fernandez has served as legal counsel for receivers in at least five cases involving the Commission or the Commodity Futures Trading Commission.

Mr. Rivero has agreed to significantly discount his current hourly rate to \$350 per hour, down from his usual rate of \$1,000 per hour. Mr. Rivero has also agreed to discount the billing rates for his professionals to \$395 per hour for Mr. Mestre, reduced from \$950 per hour. Similarly, Mr. Rivero has agreed to an hourly rate of \$300 per hour for Ms. Fernandez. The associates at Rivero Mestre LLP would work at discounted hourly rates between \$200-300, and paralegals would work at discounted hourly rates of \$100. Finally, Mr. Rivero has informed the Commission that the Rivero Mestre LLP team has no conflicts of interest in this matter and is ready, willing, and able to serve as Receiver and as counsel to the Receiver in this case. Therefore, the Commission staff recommends Mr. Rivero, who has the capability and experience necessary to carry out the tasks of the Receiver and has indicated a willingness to serve.

As the Commission indicated previously, the Commission has identified two other well-qualified candidates who have no conflicts of interest. Accordingly, if the Court does not agree with the Commission's recommendation, the Commission suggests the Court consider the alternative candidates whose credentials are attached.

#### **IV. CONCLUSION**

For the reasons described herein and in the Emergency Motion, the Court should appoint Andrés Rivero, or another qualified candidate deemed appropriate by the Court, as a receiver for Wells, including the Relief Defendants.

Pursuant to Local Rule 7.1(a)(2), a proposed order granting this motion and appointing a receiver is attached as Exhibit 4.

No pre-filing conference with counsel for Defendants is required because this is a properly filed *ex parte* motion identified by Local Rule 7.1(a)(3).

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully requests that the Court grant this motion, appoint a receiver for Wells (including the Relief Defendants), enter the proposed order appointing receiver filed with this motion, and grant any additional relief that the Court deems just and proper.

**LOCAL RULE 7.1(D) CERTIFICATION**

After reviewing the facts and researching applicable legal principles, I certify that this motion presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions. A ruling is requested as soon as possible, and preferably within the next five business days, and at the same time as a ruling on the Commission's contemporarily filed Emergency *Ex Parte* Motion and Memorandum of Law for Asset Freeze and Other Relief. An emergency ruling is necessary to prevent the further dissipation of investor assets and to represent the interests of investors in several state court foreclosure actions against Wells, Bingham, and certain Relief Defendants.

Dated: August 12, 2024

Respectfully submitted:

By: 

Brian Lechich, Esq.  
Florida Bar No. 84419  
Email: LechichB@sec.gov  
Phone: (305) 416-6257  
*Lead Attorney*

and

Hughens Dolisca, Esq.  
Florida Bar No. 99744  
Senior Counsel  
Email: DoliscaH@sec.gov  
Phone: (305) 982-6344

**ATTORNEYS FOR PLAINTIFF  
SECURITIES AND EXCHANGE  
COMMISSION**

801 Brickell Avenue, Suite 1950  
Miami, FL 33131  
Telephone: (305) 982-6300  
Facsimile: (305) 536-4154

# **EXHIBIT 1**

**ANDRÉS RIVERO**  
**RIVERO MESTRE LLP**  
2525 Ponce de Leon Blvd.  
Suite 1000  
Miami, Florida 33134  
Telephone: (305) 445-2500  
Fax: (305) 445-2505  
E-mail: arivero@riveromestre.com

Andrés Rivero is a commercial litigator and white-collar criminal defense lawyer who, for 37 years, has handled the full range of civil and criminal cases. In Chambers USA he has been called “a brilliant lawyer with an inquisitive mind.” A skilled trial lawyer, Rivero has during his career tried many cases to jury verdict in federal and state court. He was one of the lead prosecutors in *U.S. v. Brown, et al.*, one of the longest trials in the history of the Southern District of Florida. He has also argued many cases before the United States Courts of Appeals for the First Circuit, Second Circuit, Third Circuit, Eleventh Circuit, and Florida appellate courts. His background in government service as a federal prosecutor in the Southern District of Florida and in private practice as a litigation partner at Greenberg Traurig and as a founding partner of his own medium-size litigation law firm gives him a broad perspective on legal practice in South Florida.

Rivero has substantial experience in representing corporations and individuals in intellectual property disputes, antitrust and securities claims, partnership and shareholder controversies, and significant white-collar criminal matters. Along with many other members of the firm, Rivero is fluent in Spanish and has conducted numerous litigations and arbitrations, including an arbitration trial in Mexico, in Spanish.

Rivero has served as an adjunct professor in the LL.M. program at the University of Miami Law School, where he taught U.S. litigation practice, and has taught at the Attorney General’s Advocacy Institute. He also has served as chairman of the Judicial Nominating Commission for the 11th Circuit Court for Miami-Dade County, Florida.

**EXPERIENCE**

- |                     |   |
|---------------------|---|
| <b>1998-present</b> | <b>Partner</b><br>Rivero Mestre LLP (and predecessors)  |
| <b>1996-1998</b>    | <b>Shareholder, Litigation Department</b><br>Greenberg Traurig  |
| <b>1994 – 1996</b>  | <b>Attorney, Litigation Department</b><br>Greenberg Traurig   |
| <b>1989-1994</b>    | <b>Assistant United States Attorney</b><br>U.S. Attorney’s Office for the Southern District of Florida <ul style="list-style-type: none"><li>• 1992-1994 Public Corruption Section</li><li>• 1989-1992 Economic Crimes Section</li><li>• Appeals and Major Crimes Section</li></ul> |

**1986-1989**                      **Attorney, Litigation Department**  
Greenberg Traurig, Miami, Florida

**EDUCATION**

**University of California Berkeley School of Law, J.D., 1986**

**Harvard College, A.B., *magna cum laude*, 1982**

Major: Social Studies (an interdisciplinary honors concentration embracing all of the social sciences)

**Miami Killian Senior High School, 1978**

**TEACHING EXPERIENCE**

**1990-1996**                      **Adjunct Professor/Advisor**  
University of Miami Law School  
Comparative Trial Practice Program

**1993**                              **Faculty member**  
Attorney General's Advocacy Institute

**REPRESENTATIVE PUBLICATIONS**

*Deposing Nonhumans: Corporate Representative Depositions in Florida*, The Florida Bar Journal, Volume 79, No. 1.

*Comity of Errors: Understanding the International Abstention Doctrine*, University of Florida Journal of International Law, Volume 17, Issue 2.

**RECOGNITIONS AND HONORS**

Honored by the Daily Business Review's Florida Legal Awards as a Distinguished Leader for 2023

Rivero Mestre ranked in the Legal 500 Latin America guide as a Top Tier Firm in the City Focus category for Miami for 2023

Rivero Mestre honored by The American Lawyer as a finalist for National Boutique / Specialty Litigation Department of the Year for 2022

Rivero Mestre recognized by the Daily Business Review's Florida Legal Awards as a finalist in the Cross-Border Disputes category for 2024

Rivero Mestre honored by the Daily Business Review's Florida Legal Awards as Litigation Department of the Year for 2022

Rivero Mestre recognized by Chambers USA in The Elite in Florida category in Band 1

Recognized in Lawdragon's 500 Leading Litigators in America Guide for 2023 and 2024

Recognized in Lawdragon's 500 Leading Global Litigators Guide for 2021 and 2023

Rivero Mestre shortlisted by Benchmark Litigation as Florida Firm of the Year for 2022 and 2023

Rivero Mestre honored by Benchmark Litigation as Florida Firm of the Year for 2021

Rivero Mestre honored by Chambers and Partners as the winner of its 2020 Diversity & Inclusion Award for Outstanding Firm for Furthering Diversity and Inclusion (USA Private Practice Firm category)

Rivero Mestre recognized by the Daily Business Review in the *13th Annual Most Effective Lawyers* special report in the category of Class Actions

Rivero Mestre honored by The American Lawyer as a winner of a Global Legal Award for its work on the Chevron v. Donziger case in the category of Global Dispute of the Year: U.S. Fraud Litigation

Ranked in the 2014 through 2024 edition of Chambers USA in General Commercial Litigation (Florida)

Rivero Mestre honored by Chambers and Partners as a finalist for the 2016 Diversity & Inclusive Award for Most Inclusive Firm for Minority Lawyers

Rivero Mestre ranked in Benchmark Litigation in Dispute Resolution as a "Highly Recommended Firm" in Florida, 2021 – present

Ranked in Benchmark Litigation as a "Local Litigation Star" in General Commercial, 2021 – present

AV Preeminent, Peer Rated for Highest Level of Professional Excellence by Lexis-Nexis Martindale Hubbell

Rivero Mestre ranked as a Tier 1 law firm in U.S. News Media Group and Best Lawyers' "Best Law Firm" rankings for: White-Collar Governmental Investigations and White-Collar Litigation, 2013; White-Collar Criminal Defense, since 2014; Commercial Litigation, since 2019; Litigation – Securities, since 2020; Litigation – Banking & Finance, since 2021

Recognized in *The Best Lawyers in America* in various categories including Criminal Defense-White Collar, 2009-present; Litigation-Securities, 2016-present; Commercial Litigation, 2018-present

Rivero Mestre recognized by the Leadership Council on Legal Diversity as a Top Performer, 2014 through 2016

Recognized by Latino Leaders Magazine as a Top Latino Lawyer, 2020

Consistently recognized as among Florida Super Lawyers since 2010 (voted for by members of the Florida Bar)

Rivero Mestre ranked by South Florida Legal Guide as a Top Law Firm, 2021-present

Consistently ranked by South Florida Legal Guide as a Top Lawyer in Commercial Litigation and Complex Business Litigation

Recognized as among Florida Legal Elite many times since 2004 by Florida Trend Magazine (voted for by members of the Florida Bar)

Recognized by American Lawyer Media and Martindale Hubbell as a Top-Rated Lawyer in Intellectual Property, 2013 and 2015

Selected by Who's Who Legal as one of world's leading practitioners in Business Crime Defense, 2013 and 2014

Recognized by American Lawyer Media as a South Florida Best Lawyer in Criminal Defense: White-Collar, 2012

### **COURT ADMISSIONS**

United States Supreme Court (2018)  
United States Court of Appeals, First Circuit (2012)  
United States Court of Appeals, Third Circuit (2011)  
United States Court of Appeals, District of Columbia (2011)  
United States Court of Appeals, Second Circuit (2010)  
United States Court of Appeals, Eleventh Circuit (1989)  
United States District Court, Southern District of Florida (1986)  
United States District Court, District of Colorado (2010)  
Northern District of Florida (2001)  
Middle District of Florida (1998)

### **PROFESSIONAL AND COMMUNITY MEMBERSHIPS**

Aire Ventures, Board of Directors (2022-present)

Cleveland Orchestra Miami, Board of Directors (2016)

Co-Chair, National Association of Minority and Women Owned Law Firms White-Collar Practice Area Committee (2015-2019)

Commissioner, Miami-Dade County Circuit Court Judicial Nominating Commission (2005-2010)  
Vice-Chairman (2008)  
Chairman (2009)

President, Assistant U.S. Attorney Association (2002-2003)

Coach, Coral Gables Elementary School County Champion Geography Club (2001-2003; 2005-2007)

Treasurer, Assistant U.S. Attorney Association (2001-2002)

City of Coral Gables Retirement System Board (1996-2000)

Election Crimes Coordinator, United States Attorney's Office, Southern District of Florida (1993-94)

Volunteer Reader, WLRN Radio Reading Service, Miami, Florida (1993-1996)

Adjunct Professor/Advisor, Comparative Trial Practice Program, University of Miami Law School (1990-1996)

Faculty member, Attorney General's Advocacy Institute (1993)

Advisory Committee, Carol City High School, Pre-Law Magnet Program (1990-1993)

### **SPEAKING ENGAGEMENTS**

iLaw2024: ILS Global Forum on International Law (Miami Florida), Speaker, "Hot Topics in International Litigation," February 2024

Legalink General Meeting (Tokyo, Japan), Speaker, "AI Future-Ready Law Firms," September 2023

Legalink General Meeting – Fintech Forum (Frankfurt Germany), Speaker, "Litigation In Crypto Matters," May 2023

New York City Bar Association (Virtual), Moderator, "Combating Corruption in Mexico: What's Happening with Mexico's National Anti-Corruption System?," April 2022

ABA 2021 Virtual Litigation Section Annual Conference, Speaker, "Better NOT Call Saul: Ethical Strategies for Overcoming Bullying and Bias in Litigation," May 2021

The Litigation Room: Where it Happens Podcast, Speaker, "Diversity, and Inclusion: Why is D&I A Game Changer?," October 2020

The Litigation Room: Where it Happens Podcast, Speaker, "Managing Risk, Liability, and Claims: Does your general liability insurance policy cover you against COVID-19-related claims after you reopen your business?," September 2020

ABA International Law Section Annual Virtual Meeting Webinar, Speaker, "Paradise Recouped? Impact of Helms-Burton Title III Activation on Expropriated Cuban Property," June 2020

HarrisMartin's Valsartan & Losartan Recall Litigation Conference, Speaker, "Third-Party Payor Cases," April 2019

National Association of Minority and Women Owned Law Firms Mid-Year Conference (New Orleans) CLE panelist, "Driving Diversity & Leadership," "In-House Counsel at Risk: Enforcement Actions Against Gatekeepers," and "The Corporate Scene: Investigation of an International Scandal and the Pitfalls to Avoid Creating Another One," February 2019

International Litigation Panel (Guatemala City, Guatemala), Speaker, "Managing Complex International Investigations," January 2019

National Association of Minority and Women Owned Law Firms Annual Meeting (Chicago)  
CLE panelist, "Avoiding Pitfalls and Untangling Knots in Corporate Internal Investigations,"  
September 2018

National Association of Minority and Women Owned Law Firms Annual Meeting (Houston)  
CLE panel moderator, "On High Alert: Rising and Shifting Liability in the Face of Increased  
Data Breaches," September 2016

National Association of Minority and Women Owned Law Firms Mid-Year Meeting (New  
Orleans) CLE panel moderator, "Navigating a Cybersecurity Investigation Conducted by the  
Securities and Exchange Commission," February 2016

National Association of Minority and Women Owned Law Firms Annual Meeting (Los Angeles)  
CLE panel moderator, "Get Smart: The DOJ Rewrites Its FCPA Screenplay," September 2015

Florida Managing Partners Association Annual Dinner (Miami) panelist, "Diversity: a Goal  
Worth Pursuing or a Failed Experiment?," April 2015

National Association of Minority and Women Owned Law Firms Annual Meeting (Minneapolis)  
CLE panel moderator, "The Expansion of Cybersquatting Beyond Domain Names: Should the  
Lanham Act Protect the Use of Trademarked Names in Post-Domain Paths?," September 2013

American Bar Association's Section of Litigation Insurance Coverage Committee's 25th Annual  
CLE Seminar (Tucson) CLE panel moderator, "Practitioner's Pulse: Enforcing D&O Insurance  
Coverage Subject to the Insured v. Insured Exclusion," March 2013  
University of Miami School of Law Diversity Week Networking and Diversity Panel speaker,  
January 2013

FIU Law School, welcome address speaker for Stand Your Ground Town Hall Meeting, March  
2012

University of Miami, School of Business Administration, Business Law Department,  
International Business class guest lecturer on the Foreign Corrupt Practices Act, November 2011

American Bar Association's Section of Litigation's Annual Conference (Miami), CLE panelist,  
"Updates in the Foreign Corrupt Practices Act," April 2011

### **LANGUAGES**

Spanish

# **EXHIBIT 2**

## **DAVID S. MANDEL**

### **Education**

CORNELL LAW SCHOOL Ithaca, New York. J.D. 1986

LONDON SCHOOL OF ECONOMICS London, England. Graduate Studies in International Relations, 1982-83

BROWN UNIVERSITY Providence, Rhode Island. A.B., Political Science, *magna cum laude*, 1982

### **Experience**

#### **MANDEL & MANDEL LLP**

Partner. Represents individuals and corporations in complex commercial litigation, compliance and regulatory matters, internal investigations, grand jury proceedings, arbitrations and trials. Emphasis in the investment and financial services sectors and in matters involving allegations of fraud. Served as Court appointed Receiver in both Securities and Exchange Commission and Federal Trade Commission matters. 1997-present.

#### **MANDEL ARBITRATION, Inc.**

Independent Arbitrator. Focus on international, investment, and complex commercial arbitrations. Fellow, Chartered Institute of Arbitrators. Member, Panel of Arbitrators for the Financial Industry Regulatory Authority (FINRA). Appointed as Chair and Co-arbitrator in International Centre for Dispute Resolution (ICDR) arbitrations. 2019-present.

#### **MORGAN, LEWIS & BOCKIUS LLP**

Of Counsel. Directed the Miami Office's Corporate Investigations and Criminal Defense (CICD) Practice Group. Handled numerous criminal and civil litigation matters, involving RICO, antitrust violations, securities fraud, Foreign Corrupt Practices Act and money laundering. 1995-1997.

#### **UNITED STATES ATTORNEY'S OFFICE Southern District of Florida**

Assistant United States Attorney. Investigated and prosecuted a variety of complex criminal and asset forfeiture matters. Received Evans Memorial Award, given to the Outstanding Assistant United States Attorney, Southern District of Florida. Extensive trial and appellate experience. 1989-1995.

#### **COFFIELD UNGARETTI & HARRIS Chicago, Illinois.**

Associate. Handled commercial, products liability and securities litigation. 1986-1989.

### **Bar Admissions**

Admitted in Florida, Illinois, New York and Washington, D.C.

### **Professional Associations and Memberships**

Member, Federal Bar Association, South Florida Chapter  
Chair, Federal Court Committee, Dade County Bar Association, 1998 - 2000  
Fellow, Chartered Institute of Arbitrators  
Member, Miami International Arbitration Society  
Panel of Arbitrators, Financial Industry Regulatory Authority (FINRA)  
Member, Wilson Council, Woodrow Wilson International Center for Scholars,  
Washington, D.C. 2007-2018  
Chair, International Law Committee, Dade County Bar Association, 2015-2016  
President, Foster Care Review, Inc., Miami, Florida, 2000 - 2002  
President, B'nai B'rith Bench & Bar, 1997  
FAA Commercial Pilot's License

### **Honors and Awards**

The Best Lawyers in America  
Securities Litigation 2024 Lawyer of the Year (Miami)  
America's Leading Business Lawyers, Chambers USA  
Martindale-Hubbell Peer Review Rating -- AV Preeminent 5.0 out of 5  
Top Lawyers in South Florida, *South Florida Legal Guide*  
The International Who's Who of Business Crime Defense Lawyers  
Florida Super Lawyers  
People of the Year, *Daily Business Review*, 2014  
Finalist, Most Effective Lawyer, *Daily Business Review*, 2012  
Key Partners Award, *South Florida Business Journal*, 2012  
Evans Memorial Award, Outstanding Assistant U.S. Attorney, Southern District of Florida

**Personal Data**            Born January 23, 1959  
                                 Married; Three Children

# **EXHIBIT 3**



# Michael S. Budwick

**Partner and Co-Chair, Financial Fraud Group**

**Commercial Litigation, Bankruptcy and  
Restructuring, Financial Frauds,  
Receivership and Assignments,  
Creditors' Rights**



Office: 305.358.6363 , 305.375.6090 Fax: 305.358.1221

Email [mbudwick@melanbudwick.com](mailto:mbudwick@melanbudwick.com)

## **About Michael S. Budwick**

Michael S. Budwick is regularly involved in the most contentious and complex litigation and insolvency matters, having successfully litigated or resolved a broad array of commercial disputes. In Chambers USA he has been described as "an extraordinary litigator, and a determined and tenacious guy" as well as "a highly skilled lawyer with a niche in financial fraud cases."

Michael has handled business and bankruptcy related litigation matters involving lender liability, breach of fiduciary duty, negligence, fraud, aiding and abetting, professional malpractice, equitable subordination, breach of contract, usury and fraudulent transfer. His significant Chapter 11 reorganization experience includes representation of debtors, official committees, creditors and trustees in cases across many industries.

Michael has represented trustees, receivers, creditors and victims in some of the country's largest, most high-profile financial fraud cases. In the \$2 billion Ponzi scheme perpetrated by Tom Petters (the third largest Ponzi in U.S. history), Michael served as litigation oversight counsel coordinating strategy and managing several law firms collectively pursuing hundreds of millions of dollars in litigation claims. In the \$1 billion Ponzi perpetrated by Jeff Carpoff, the largest fraud in the history of the Eastern District of California, Michael serves as special counsel to the Chapter 7 Trustee, pursuing claims against banks, legal and accounting professionals, and many others. Michael recovered \$49 million from General Electric Capital Corp., one of the largest tort recoveries ever against a financial institution for its alleged joinder in a Ponzi scheme. Michael has also recovered \$16.8 million from BMO Harris Bank, \$11.6 million from KeyBank, \$9 million from Heritage Bank, and \$5.4 million from Ocean Bank, among other seven and eight figure recoveries subject to confidentiality restrictions.

Michael is listed Band 1 – the highest placement – in the category Bankruptcy Litigation in Florida of the 2023 Chambers USA Guide, a prestigious ranking of the top attorneys in the country. He has been recognized since 2005 in Chambers as a top bankruptcy and restructuring lawyer and rated highly for his expertise in financial fraud.

The Guide mentions that “Michael has a very sharp mind and is very strong on all areas of bankruptcy” and that he “maintains his reputation as a highly accomplished bankruptcy attorney, with expertise in advising on Ponzi scheme-related bankruptcy.”

The Guide has also noted: “his expertise in Chapter 11 reorganization matters, with experience representing debtors, trustees and commercial committees.”

He has served on the National Council, the Miami Executive Council and the Miami Beach Board of the American Israel Public Affairs Committee.

#### **Education**

- University of Florida College of Law, J.D. with honors, 1991
- University of Florida College of Business Administration, B.S. with honors, 1988
- Beta Gamma Sigma National Honor Society

#### **Memberships**

- Board Member, Rabbi Alexander S. Gross (RASG) Hebrew Academy
- Past first Vice-President, Treasurer and Director of the Bankruptcy Bar Association for the Southern District of Florida
- Past Member of the Florida Bar Grievance Committee

#### **Awards/Rankings**

- Ranked, Chambers USA Guide, Band 1, Bankruptcy Litigation in Florida, 2020-2024
- Ranked, Chambers USA Guide, Litigation: General Commercial in Florida, 2020-2024
- The Daily Business Review: Most Effective Lawyer 2016 Finalist, Bankruptcy Category
- Florida Super Lawyers, 2006-2024
- AV Preeminent Judicial and Peer Rating by Martindale-Hubbell
- Recognized as an elite attorney by Florida Trend Magazine
- The Best Lawyers in America, listed in the practice areas of Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law

## Representative Matters

Practice Area	Representative Matters
Bankruptcy and Restructuring, Financial Frauds, Commercial Litigation, Creditors' Rights	Represent bankruptcy trustee for two South Florida-based hedge funds that lost \$651 million in a multi-billion Ponzi scheme perpetrated by Thomas J. Petters in Minneapolis, the third-largest financial fraud in American history. Successfully prosecuted over 100 actions and claims against banks, law firms, accounting firms and others, recovering in the aggregate well over \$200,000,000, including \$49,000,000 from General Electric Capital Corporation and \$16,000,000 from BMO Harris Bank, N.A. Represent client as a member of the Petters Company, Inc., Liquidating Trust Committee. Served as special counsel to the PCI Liquidating Trust to manage and resolve hundreds of millions of dollars in litigation claims.
Financial Frauds and Commercial Litigation	Meland Budwick serves as special litigation counsel to Christina Lovato, the chapter 7 bankruptcy trustee in Reno, Nevada for DC Solar Solutions, Inc. and certain affiliates (DC Solar). Jeffrey Carpoif and others pled guilty to perpetrating a \$1 billion Ponzi scheme through DC Solar. The firm is prosecuting all litigation claims held by the trustee. To date the firm has recovered tens of millions of dollars, including settlements with KeyBank for \$11.6 million, DC Solar's accountants for \$11.25 million, Heritage Bank for \$9 million, and a NASCAR subsidiary for \$5.75 million. The firm is prosecuting other actions, including claims for negligence and breach of fiduciary duty seeking hundreds of millions of dollars in damages against an Am Law 100 firm that served as DC Solar's legal counsel.
Bankruptcy	Served as Chapter 11 counsel to IT'SUGAR LLC, a specialty candy retailer with approximately 100 stores and over 700 employees across 28 states. Through extensive negotiations with dozens of landlords, IT'SUGAR was able to obtain millions of dollar in pre and post-petition rent relief, restructure vendor debt, and successfully confirm a Chapter 11 plan of reorganization.
Bankruptcy	Confirmed Chapter 11 Plan for upscale South Beach restaurant.

Bankruptcy	Representation of affiliate of BBX Capital in connection with protecting its interests as a secured creditor Chapter 11 bankruptcy of Robovault high tech storage facility in Fort Lauderdale.
Bankruptcy and Restructuring	Pan American Hospital - represented the successful purchaser of a landmark operating hospital for over \$34 million through a Chapter 11 Section 363 sale.
Bankruptcy and Restructuring	Represented the Official Committee of Unsecured Creditors in the Falcon Air bankruptcy.
Bankruptcy and Restructuring	Represented Creditors Committee in Cabi Downtown, LLC (Everglades by the Bay) twin 49 story downtown Miami condominium towers with over \$200 million in debt.
Bankruptcy and Restructuring	Representation of the official committee of unsecured creditors in a Chapter 11 case of sugar processing and retail business
Bankruptcy and Restructuring, Commercial Litigation	Supra Telecommunications & Systems, Inc. - represented the largest CLEC in the Southeastern United States in its Chapter 11 Reorganization, litigating numerous contentious matters with Bellsouth and successfully reducing Bellsouth's claim from approximately \$170 million to approximately \$37.5 million and ultimately confirmed a plan.
Bankruptcy and Restructuring, Commercial Litigation	New World Network International Ltd. - representation of a group of minority shareholders in a telecommunications Chapter 15 bankruptcy pending in the Southern District of New York and litigated whether a foreign proceeding in Bermuda should be recognized as a main proceeding as well as other venue issues.
Bankruptcy and Restructuring, Commercial Litigation, Creditors' Rights	Condominium Developer Workouts - during the downturn of the real estate and condominium market, represented numerous developers in workouts with senior secured and mezzanine lenders, including, Corus Bank, Fremont, Key Bank and Ocean Bank.
Bankruptcy and Restructuring, Commercial Litigation, Creditors' Rights	New Florida Properties, Inc. (Blue and Green Diamond) - representation of the equity holder and its affiliates in connection with the 630 unit landmark Blue and Green Diamond condominium projects on Miami Beach. Prosecuted tort claims against the senior secured participating lenders,

	<p>including, Union Planters and Ocean Bank. MRB raised claims against the lenders for equitable subordination and lender liability resulting in the bank group waiving over \$6 million in debt and agreeing to permit the equity holder to retain control over the disposition of the units.</p>
<p>Bankruptcy and Restructuring, Commercial Litigation, Financial Frauds</p>	<p>Representation of the Chapter 7 Trustee and Michael Budwick served as the receiver appointed by the United States District Court in a \$19 million Ponzi scheme case perpetrated by Thomas Abrams. Brought a variety of litigation claims and reached a multi-million dollar settlement of an aiding and abetting claim against Fidelity Federal Bank &amp; Trust, N.A.</p>
<p>Bankruptcy and Restructuring, Financial Frauds, Commercial Litigation</p>	<p>Represented group of major clawback defendants in Lancer Partners financial fraud case.</p>
<p>Bankruptcy and Restructuring, Financial Frauds, Commercial Litigation, Creditors' Rights</p>	<p>Represented largest creditor in Evergreen Securities bankruptcy in Orlando, Florida, involving \$214 million ponzi scheme.</p>
<p>Bankruptcy and Restructuring, Financial Frauds, Commercial Litigation, Creditors' Rights</p>	<p>Represented largest victim in Ponzi scheme perpetrated by Scott Rothstein and Rothstein Rosenfeldt &amp; Adler, P.A. law firm in Fort Lauderdale.</p>
<p>Bankruptcy and Restructuring, Financial Frauds, Commercial Litigation, Creditors' Rights</p>	<p>Puig, Inc. - representation of the Official Joint Committee of Unsecured Creditors and then the Plan Administrator in connection with 26 debtor affiliates in the business of condominium conversions. The asserted unsecured claims exceeded \$100 million. Prosecuted claims against third parties include actions for avoidance of transfers, professional malpractice, usury, fraud and breach of fiduciary duty.</p>
<p>Commercial Litigation</p>	<p>Representation of shareholders of close corporation in eight figure settlement of lender liability claims against consortium of financial institutions.</p>

Commercial Litigation	Representation of minority shareholders in derivative action related to corporation holding real estate investments with tens of millions of dollars in equity.
Commercial Litigation, Creditors' Rights	Represented owner of Grand Bay Hotel in Coconut Grove in successful workout with lender.
Commercial Litigation	Representation of the principal of a large South Florida based company accused of breach of fiduciary duty and negligence by the company's creditors.
Commercial Litigation	Represented multiple individual and corporate plaintiffs, including Berjaya Group (Cayman) Limited and Prime Gaming Philippines, Inc. in litigation against Duffy's Holdings, Inc. involving allegations of breaches of a stock purchase agreement regarding the multi-national restaurant chain of Roadhouse Grill, Inc.
Financial Frauds, Bankruptcy	Representation of the chapter 7 bankruptcy trustee of an entity through which its principal operated a \$40+ million ponzi scheme. The principal has been sentenced to more than 15 years in prison.
Financial Frauds, Bankruptcy and Restructuring	Court appointed Mark S. Meland as Receiver for Innovida Companies run by Claudio Osorio. After discovering an approximately \$50 million fraud, ceased operations and filed Chapter 11 for numerous entities. Mark S. Meland was appointed the Chapter 11 Trustee and liquidated tangible assets. Firm serves as litigation counsel to the Chapter 7 trustee in numerous avoidance and tort actions seeking to collect funds for defrauded investors.
Receiverships and Assignments	A Florida State Court appointed Mark Meland as Receiver over entities controlled by Claudio Osorio, including Innovida Holdings, Inc. The firm represented Mr. Meland in his efforts as Receiver.
Commercial Litigation	Represented a leading real estate brokerage firm in its claims for malpractice, fraud, and breach of fiduciary duty against separate accounting firms and individual accountants. The matter resolved presuit for a confidential amount paid to our client.

# **EXHIBIT 4**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**Filed Under Seal**

WELLS REAL ESTATE INVESTMENT, LLC,  
JANALIE C. JOSEPH  
A/K/A JANALIE C. BINGHAM, and  
JEAN JOSEPH,

Defendants, and

CAMBRIDGE REAL ESTATE MANAGEMENT, LLC,  
60 YACHT CLUB, LLC, 112 SOUTH OLIVE, LLC,  
791 PARKSIDE HOME, LLC, 910 PARKSIDE, LLC,  
930 PARKSIDE, LLC, 976 PALM BEACH SQUARE, LLC,  
1070 BOCA RATON SQUARE, LLC,  
2082 PARADISE PALM, LLC,  
2295 CORPORATE BLVD LLC, 4050 NW, LLC,  
4100 HOSPITAL OFFICE, LLC, 4800 FEDERAL, LLC,  
7352 VALENCIA, LLC, 7483 VALENCIA, LLC,  
BOCA DEERFIELD PROPERTIES, LLC,  
DAYBREAK HOME, LLC,  
GLOBE OFFICES, LLC,  
GLOBE PROPERTY OFFICES, LLC,  
LW SQUARE OFFICE, LLC,  
MARTINIQUEÂ INVESTMENTS LLC  
a/k/a MARTINIQUE'S INVESTMENTS LLC,  
OAKLAND LAND PROPERTY, LLC, and  
SOUTH OLIVE OFFICE, LLC,

Relief Defendants.

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**ORDER GRANTING PLAINTIFF  
SECURITIES AND EXCHANGE COMMISSION'S EMERGENCY *EX PARTE*  
MOTION AND MEMORANDUM OF LAW FOR APPOINTMENT OF RECEIVER**

WHEREAS Plaintiff Securities and Exchange Commission has filed a motion for the appointment of a receiver over Defendant Wells Real Estate Investment, LLC (“Wells”) and its affiliated entities named as the Relief Defendants<sup>1</sup> (collectively, the “Wells Entities”), with full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, causes in action, and any other property of the Wells Entities; marshal and safeguard all of its assets; and take whatever actions are necessary for the protection of the investors;

WHEREAS the Court finds that, based on the record in these proceedings, the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of the Wells Entities (“Receivership Assets”) that: (a) are attributable to funds derived from investors or clients of Wells; (b) are held in constructive trust for the Wells Entities; (c) were fraudulently transferred by the Wells Entities; and/or (d) may otherwise be includable as assets of the estates of the Wells Entities (collectively, the “Recoverable Assets”); and,

WHEREAS this Court has subject matter jurisdiction over this action and personal jurisdiction over the Wells Entities, and venue properly lies in this district.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of Wells and the Relief Defendants identified in Footnote 1 (collectively, the “Receivership Defendant”).

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<sup>1</sup> Cambridge Real Estate Management, LLC, 60 Yacht Club, LLC, 112 South Olive, LLC, 791 Parkside Home, LLC, 910 Parkside, LLC, 930 Parkside, LLC, 976 Palm Beach Square, LLC, 1070 Boca Raton Square, LLC, 2082 Paradise Palm, LLC, 2295 Corporate Blvd LLC, 4050 NW, LLC, 4100 Hospital Office, LLC, 4800 Federal, LLC, 7352 Valencia, LLC, 7483 Valencia, LLC, Boca Deerfield Properties, LLC, Daybreak Home, LLC, Globe Offices, LLC, Globe Property Offices, LLC, LW Square Office, LLC, Martinique Investments LLC a/k/a Martinique’s Investments LLC, Oakland Land Property, LLC, and South Olive Office, LLC.

2. Until further Order of this Court, \_\_\_\_\_ is hereby appointed to serve without bond as receiver (the “Receiver”) for the estate of the Receivership Defendant, including any of its divisions, subsidiaries, affiliates, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them.

**I. Asset Freeze**

3. Except as otherwise specified herein, all Receivership Assets and Recoverable Assets are frozen until further order of this Court. Accordingly, all persons and entities with direct or indirect control over any Receivership Assets and/or any Recoverable Assets, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating, or otherwise disposing of or withdrawing such assets. This freeze shall include, but is not limited to, Receivership Assets and/or Recoverable Assets that are on deposit with financial institutions such as banks, brokerage firms, and mutual funds.

**II. General Powers and Duties of Receiver**

4. The Receiver shall have all powers, authorities, rights, and privileges heretofore possessed by the officers, directors, managers, and general and limited partners of the Receivership Defendant under applicable state and federal law, by the governing charters, by-laws, articles, and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959, and 1692, and Fed. R. Civ. P. 66.

5. The trustees, directors, officers, managers, employees, investment advisors, accountants, attorneys, and other agents of the Receivership Defendant are hereby dismissed and the powers of any general partners, directors, and/or managers are hereby suspended. Such persons

and entities shall have no authority with respect to the Receivership Defendant's operations or assets, except to the extent as may hereafter be expressly granted by the Receiver. The Receiver shall assume and control the operation of the Receivership Defendant and shall pursue and preserve all of its claims.

6. No person holding or claiming any position of any sort with the Receivership Defendant shall possess any authority to act by or on behalf of the Receivership Defendant.

7. Subject to the specific provisions in Sections III through XIV, below, the Receiver shall have the following general powers and duties:

- A. To use reasonable efforts to determine the nature, location, and value of all property interests of the Receivership Defendant, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights, and other assets, together with all rents, profits, dividends, interest, or other income attributable thereto, of whatever kind, which the Receivership Defendant owns, possesses, has a beneficial interest in, or control directly or indirectly ("Receivership Property" or, collectively, the "Receivership Estates");
- B. To take custody, control, and possession of all Receivership Property and records relevant thereto from the Receivership Defendant; to sue for and collect, recover, receive, and take into possession from third parties all Receivership Property and records relevant thereto;
- C. To manage, control, operate, and maintain the Receivership Estates and hold in his possession, custody, and control all Receivership Property, pending further Order of this Court;
- D. To use Receivership Property for the benefit of the Receivership Estates, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, trustees, and agents of the Receivership Defendant;
- F. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives,

financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders, or auctioneers;

- G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- H. The Receiver is authorized to issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure;
- I. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver;
- J. To pursue, resist, and defend all suits, actions, claims, and demands which may now be pending or which may be brought by or asserted against the Receivership Estates;
- K. Engage persons in the Receiver's discretion to assist the Receiver in carrying out the Receiver's duties and responsibilities, including, but not limited to, the United States Marshal's Service or a private security firm;
- L. To expand the receivership to include other entities, as permitted by law; and,
- M. To take such other action as may be approved by this Court.

### **III. Access to Information**

8. The Receivership Defendant and the past and/or present officers, directors, agents, managers, general and limited partners, trustees, attorneys, accountants, and employees of the Receivership Defendant, as well as those acting in its place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Defendant and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts, and all other instruments and papers.

9. The Receivership Defendant and the Receivership Defendant's past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors,

creditors, managers, and general and limited partners, and other appropriate persons or entities shall answer under oath to the Receiver all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Defendant, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Defendant. In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entities, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.

10. The Receivership Defendant is required to assist the Receiver in fulfilling his duties and obligations. As such, it must respond promptly and truthfully to all requests for information and documents from the Receiver.

**IV. Access to Books, Records, and Accounts**

11. The Receiver is authorized to take immediate possession of all assets, bank accounts, or other financial accounts, books and records, and all other documents or instruments relating to the Receivership Defendant. All persons and entities having control, custody, or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

12. The Receivership Defendant, as well as its agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendant, and any persons receiving notice of this Order by personal service, facsimile or electronic mail transmission, or otherwise, having possession of the property, business, books, records, accounts, or assets of the Receivership Defendant are hereby directed to deliver the same to the Receiver, his agents, and/or employees.

13. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody, or control of any assets or funds held by, in the name of, or for

the benefit of, directly or indirectly, and of the Receivership Defendant that receive actual notice of this Order by personal service, facsimile or electronic mail transmission, or otherwise shall:

- A. Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Defendant except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;
- C. Within five (5) business days of receipt of that notice, file with the Court and serve on the Receiver and counsel for the Commission a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and,
- D. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.

**V. Access to Real and Personal Property**

14. The Receiver is authorized to take immediate possession of all personal property of the Receivership Defendant, wherever located, including, but not limited to, electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media, or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies, and equipment.

15. The Receiver is authorized to take immediate possession of all real property of the Receivership Defendant, wherever located, including, but not limited to, all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile or electronic mail transmission, or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written

permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or (c) destroying, concealing, or erasing anything on such premises.

16. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above. The Receiver shall have exclusive control of the keys. The Receivership Defendant, or any other person acting or purporting to act on its behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys in their possession during the term of the receivership.

17. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Defendant, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

**VI. Notice to Third Parties**

18. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers, and general and limited partners of the Receivership Defendant as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

19. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to the Receivership Defendant shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Defendant had received such payment.

20. In furtherance of his responsibilities in this matter, the Receiver is authorized to

communicate with and/or serve this Order upon any person, entity, or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estates. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the Commission.

21. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations, or activities of the Receivership Defendant (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Defendant. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Defendant shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of the Receivership Defendant, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented, or used by the Receivership Defendant. The Receivership Defendant shall not open a new mailbox or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository, or courier service.

22. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage, or trash removal services to the Receivership Defendant shall maintain such service and transfer any such accounts to the Receiver unless instructed to the

contrary by the Receiver.

**VII. Injunction Against Interference with Receiver**

23. The Receivership Defendant and all persons receiving notice of this Order by personal service, facsimile, electronic mail, or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action, or causing any action to be taken, without the express written agreement of the Receiver, which would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct, or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to concealing, destroying, or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to releasing claims or disposing, transferring, exchanging, assigning, or in any way conveying any Receivership Property, enforcing judgments, assessments, or claims against any Receivership Property or the Receivership Defendant, attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date) of any lease, loan, mortgage, indebtedness, security agreement, or other agreement executed by the Receivership Defendant or which otherwise affects any Receivership Property; or,
- D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.

24. The Receivership Defendant shall cooperate with and assist the Receiver in the performance of his duties.

25. The Receiver shall promptly notify the Court and Commission counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

**VIII. Stay of Litigation**

26. As set forth in detail below, the following proceedings, excluding the instant proceeding and all police or regulatory actions and actions of the Commission related to the above-captioned enforcement action, are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) the Receivership Defendant, including subsidiaries and partnerships; or, (d) any of the Receivership Defendant's past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

27. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

28. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of the Receivership Defendant against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

**IX. Managing Assets**

29. For the Receivership Estates, the Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Property (the "Receivership Funds").

30. The Receiver's deposit account shall be entitled in his name as receiver, together

with a reference to Wells Real Estate Investment, LLC.

31. The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estates, and with due regard to the realization of the true and proper value of such Receivership Property.

32. Subject to Paragraph 33 immediately below, the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estates, and with due regard to the realization of the true and proper value of such real property.

33. Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estates.

34. The Receiver is authorized to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Estates, including making legally required payments to creditors, employees, and agents of the Receivership Estates and communicating with vendors, investors, governmental and regulatory authorities, and others as appropriate.

35. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund," within the meaning of Section 468B of the Internal Revenue Code and of the regulations, when applicable.

**X. Investigate and Prosecute Claims**

36. Subject to the requirement, in Section VIII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered, and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal, or foreign court or proceeding of any kind as may in his discretion, and in consultation with Commission counsel, be advisable or proper to recover and/or conserve Receivership Property.

37. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Defendant were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estates, as the Receiver deems necessary and appropriate; the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to Counsel for the Commission before commencing investigations and/or actions.

38. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by the Receivership Defendant.

39. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, his Retained Personnel (as that term is defined below), and the Receivership Estates.

**XI. Bankruptcy Filing**

40. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for the Receivership Defendant. If the Receivership Defendant is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estates as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 4 above, the Receiver is vested with management authority for the Receivership Defendant and may therefore file and manage a Chapter 11 petition.

41. The provisions of Section VIII above bar any person or entity, other than the Receiver, from placing the Receivership Defendant in bankruptcy proceedings.

**XII. Liability of Receiver**

42. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with his fiduciary obligations in this matter.

43. The Receiver and his agents, acting within scope of such agency (“Retained Personnel”), are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good-faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good-faith compliance with their duties and responsibilities as Receiver or Retained Personnel, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

44. This Court shall retain jurisdiction over any action filed against the Receiver or

Retained Personnel based upon acts or omissions committed in their representative capacities.

45. In the event the Receiver decides to resign, the Receiver shall first give written notice to the Commission's counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

### **XIII. Recommendations and Reports**

46. The Receiver is authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property (the "Liquidation Plan").

48. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of the Receivership Estates (the "Quarterly Status Report"), reflecting (to the best of the Receiver's knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates.

49. The Quarterly Status Report shall contain the following:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;

- E. A description of liquidated and unliquidated claims held by the Receivership Estates, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
- F. A list of all known creditors with their addresses and the amounts of their claims;
- G. The status of Creditor Claims Proceedings after such proceedings have been commenced; and,
- H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

50. On the request of the Commission, the Receiver shall provide the Commission with any documentation that the Commission deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the Commission's mission.

**XIV. Fees, Expenses, and Accountings**

51. Subject to Paragraphs 52-58 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state, or local taxes.

52. Subject to Paragraph 53 immediately below, the Receiver is authorized to solicit persons and entities ("Retained Personnel") to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

53. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the "Billing Instructions for

Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

54. Beginning the third quarter of 2024, and within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estates (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the Commission a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by Commission staff.

55. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

56. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

57. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and,
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estates; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity

concerning the amount of compensation paid or to be paid from the Receivership Estates, or any sharing thereof.

58. At the close of the Receivership, the Receiver shall submit a Final Accounting in a format to be provided by Commission staff, as well as the Receiver's final application for compensation and expense reimbursement.

DONE AND ORDERED this \_\_\_\_ day of August 2024, in \_\_\_\_\_, Florida.

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UNITED STATES DISTRICT JUDGE

Copies furnished to Counsel of Record via CM/ECF