

Addenda to Respondent's Motion to Sanction Counsel re: Mark Feathers 3-15755

Prior, Plaintiff presented exhibits to this administrative law forum showing that:

1. Enforcement's counsel falsely represented a receiver as a licensed CPA
2. Enforcement counsel then falsely represented the receiver as a "licensed CFA" when defending himself to the California State Bar

While researching matters over this past weekend for a Rule 60 motion in district court to overturn a prior adverse summary judgement against him, Defendant had opportunity to review civil pleadings from CV12-03237-EJD. These include:

Docket 6-1 "Exhibit" which is a proposal letter from the Receiver to Enforcement counsel

Docket 294 Which is titled "...Opposition to Defendant Mark Feathers' Motion...to Dismiss"

These civil dockets are attached hereto as "Exhibit A" and as "Exhibit B".

Respondent asks this court to take note of the following facts, and consider it, along with other facts presented, as part of Respondent's motion for the Court to sanction, and to remove, Enforcement counsel. Additionally, in that these dockets, as the dockets prior presented, are matters of public records, Respondent re-iterate his request that the Court direct the Commission to attach these letters to Respondent's motion filings on its web pages.

Fact No. 1: Enforcement counsel states FALSELY to district court within docket 294 (Exhibit B) that "As stated in Mr. Seaman's curriculum vitae, Mr. Seaman is a highly qualified and experienced **licensed** chartered financial analyst.

Fact No. 2: Attached is Seaman's "curriculum vitae", which is Docket No. 6-1 (Exhibit A) in civil proceedings. Nowhere on Seaman's letter is there any reference by Seaman to himself as being a "licensed chartered financial analyst".

Clearly, Enforcement's counsel's lies and his cover up about the receiver's CPA and CFA "licensing" runs deep on this matter, despite his attestations that "CPA, was, regrettably, a typographical error". What about the additional false CFA licensing statements? Errors, too? Respondent re-iterates his request that this Court refer these matters to the Commission's OIG for their review of these false statements, as well as the appearance that Enforcement counsel has violated the Commission's code of conduct for its employees. Actions such as this discredit members of the California Bar, along with the credibility of the Commission, and counsel working for all other federal agencies.

Of course, the Ninth Circuit will have a chance to look at this addenda, and all of Respondent's other filings, in due course, as well as Enforcement's and the Court's responses to these, along with the actions (or the inactions) of the Commission.



Mark Feathers, *pro se*, Respondent

EXHIBIT 1

THOMAS SEAMAN COMPANY

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THOMAS A. SEAMAN, CFA
PRINCIPAL

CONFIDENTIAL

June 19, 2012

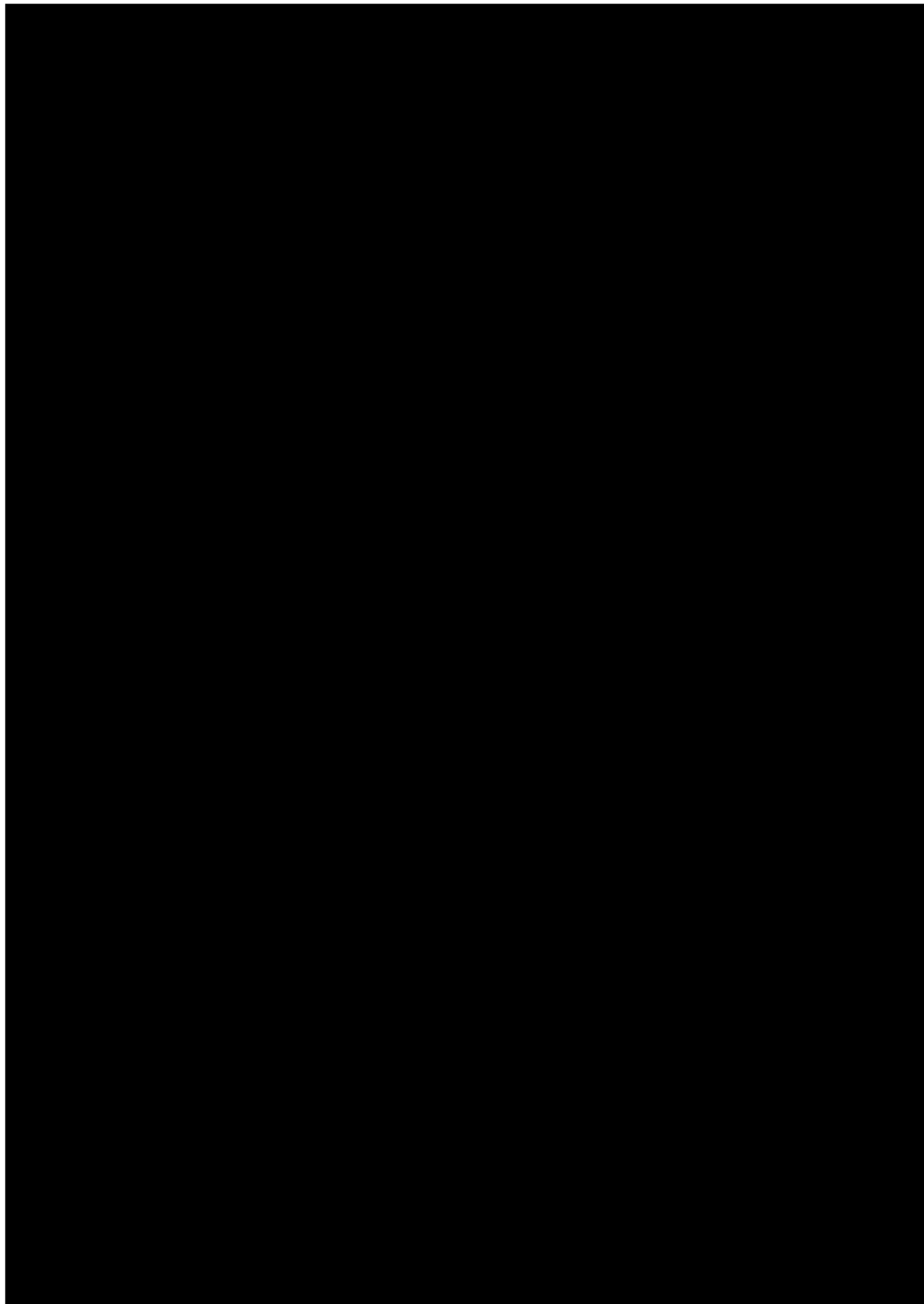
John Bulgozdy, Senior Trial Counsel
U.S. Securities & Exchange Commission
5670 Wilshire Boulevard, 11th Floor
Los Angeles, CA 90036-3648

Re: Proposal to act as receiver for Small Business Capital Corporation, et al

Dear Mr. Bulgozdy:



John Bulgozdy, Senior Trial Counsel
June 19, 2012
Page 2



John Bulgozdy, Senior Trial Counsel
June 19, 2012
Page 6



Yours very truly,

THOMAS SEAMAN COMPANY

A handwritten signature in cursive script, appearing to read "Thomas A. Seaman".

Thomas A. Seaman, CFA
Judicial Receiver

Attachments:

- Exhibit A - *Curricula Vitae*
- Exhibit B - Allen Matkins
- Exhibit C - Huron Group
- Exhibit D - Conflicts Form

CURRICULUM VITAE
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THOMAS A. SEAMAN IS PRINCIPAL AND SOLE SHAREHOLDER OF THOMAS SEAMAN COMPANY, A CALIFORNIA CORPORATION. THOMAS SEAMAN COMPANY PROVIDES BUSINESS MANAGEMENT SERVICES IN CIVIL MATTERS WHICH REQUIRE A NEUTRAL THIRD PARTY TO SERVE AS RECEIVER, REFEREE, PROVISIONAL DIRECTOR, SPECIAL MASTER, OR ADMINISTRATOR. THOMAS SEAMAN COMPANY WAS FORMED IN 1996 AND HAS THE CAPABILITY TO MANAGE AND ADMINISTER A BROAD RANGE OF ASSET CLASSES INCLUDING OPERATING COMPANIES, FINANCIAL ASSETS, REAL PROPERTY AND CONSTRUCTION PROJECTS.

MR. SEAMAN HAS 33 YEARS OF BUSINESS EXPERIENCE BOTH IN PRIVATE INDUSTRY AND AS A COURT-APPOINTED FIDUCIARY. MR. SEAMAN IS A FORMER CFO AND CONTROLLER, AND IS A CHARTERED FINANCIAL ANALYST (CFA). MR. SEAMAN ENTERED THE INSOLVENCY ARENA IN 1989 AND HAS SERVED AS RECEIVER IN APPROXIMATELY 190 MATTERS SINCE FORMATION OF THOMAS SEAMAN COMPANY. HE HAS OPERATED DISTRESSED BUSINESSES THAT WERE THE SUBJECT OF A STATE COURT RECEIVERSHIP, CHAPTER 11 BANKRUPTCY ESTATE, FEDERAL REGULATORY ACTION, PARTNERSHIP DISPUTE, PARTITION ACTION, DISSOLUTION PROCEEDING, PROBATE MATTER, OR IN OTHER LITIGATION REQUIRING A FIDUCIARY. THOMAS SEAMAN COMPANY HAS OPERATED COMPANIES IN NUMEROUS INDUSTRIES INCLUDING MANUFACTURING, DISTRIBUTION, CONSTRUCTION, HEALTHCARE, ASSISTED LIVING, SERVICE, HOSPITALITY AND OTHERS. MR. SEAMAN IS EXPERIENCED AT SEIZING ASSETS, STABILIZING OPERATIONS, AND FORMULATING & IMPLEMENTING BUSINESS SOLUTIONS.

MR. SEAMAN'S STRONG ACCOUNTING SKILLS AND EXPERIENCE AS A FINANCIAL ANALYST HAVE BEEN BENEFICIAL IN LITIGATION REQUIRING RECONSTRUCTION OF BOOKS AND RECORDS. THESE SKILLS HAVE BEEN BENEFICIAL IN FEDERAL EQUITY APPOINTMENTS IN WHICH THE RECEIVER IS REQUIRED TO MAKE A DETAILED REPORT OF THE FINANCIAL CONDITION OF THE DEFENDANT WITHIN TEN DAYS OF THE APPOINTMENT AND TO IDENTIFY SOURCES OF RECOVERY. MR. SEAMAN'S FINANCIAL SKILLS HAVE ALSO BEEN EMPLOYED BY THE COURT AND LITIGANTS TO SUPPORT THE UNDERLYING LITIGATION AND HAVE RESULTED IN THE GRANTING OF MOTIONS FOR SUMMARY JUDGMENT AND CRIMINAL INDICTMENTS. IN MATTERS WHERE THE BUSINESS IS VIABLE AND OPERATIONS ARE CONTINUED, MR. SEAMAN IS ABLE TO EXERT FINANCIAL CONTROL OVER AND OPERATE THE ENTITY.

MR. SEAMAN HAS EXTENSIVE EXPERIENCE IN REAL ESTATE AND RENTS & PROFITS RECEIVERSHIPS WHICH INCLUDES RESOLVING PROBLEMS WITH COMPLETION, MARKETING, LEASING, MANAGEMENT, PHYSICAL PLANT, ENVIRONMENTAL, SEISMIC, EMINENT DOMAIN, AND OTHER ISSUES AFFECTING REAL ESTATE. MR. SEAMAN IS EXPERIENCED IN VIRTUALLY ALL PRODUCT TYPES INCLUDING COMMERCIAL, RETAIL, MULTI-FAMILY, SENIOR LIVING, CONDOMINIUM CONVERSIONS, AND RESIDENTIAL REAL PROPERTY. MR. SEAMAN HAS BEEN CALLED UPON TO MANAGE THE CONCLUSION OF CONSTRUCTION PROJECTS AND HAS MARKETED AND SOLD COUNTLESS REAL ESTATE ASSETS. IN ASSISTED LIVING MATTERS, MR. SEAMAN HAS SERVED AS RECEIVER FOR 26 COMMUNITIES OVER THE LAST DECADE AND RESTORED STABILITY AND PROFITABILITY TO TROUBLED COMMUNITIES.

THOMAS SEAMAN COMPANY'S CLIENTS INCLUDE BANKS, PROMINENT FINANCIAL INSTITUTIONS, GOVERNMENTAL AGENCIES INCLUDING THE SECURITIES AND EXCHANGE COMMISSION, THE FEDERAL TRADE COMMISSION AND THE OFFICE OF THE UNITED STATES ATTORNEY, LIFE INSURANCE COMPANIES, AND LAW FIRMS, AMONG OTHERS.

MR. SEAMAN EARNED A BACHELOR OF SCIENCE DEGREE IN FINANCE FROM THE UNIVERSITY OF ILLINOIS IN 1979, AND WAS AWARDED A CFA CHARTER IN 1993. MR. SEAMAN'S FIRM IS LICENSED BY THE STATE OF CALIFORNIA AS A REGISTERED INVESTMENT ADVISER AND AS A CALIFORNIA REAL ESTATE BROKER. HE IS A MEMBER OF THE INSTITUTE OF CHARTERED FINANCIAL ANALYSTS, THE LOS ANGELES SOCIETY OF FINANCIAL ANALYSTS, THE CALIFORNIA RECEIVER'S FORUM, AND THE ORANGE COUNTY BAR ASSOCIATION, AS A NON-LAWYER AND IS A FOUNDING MEMBER OF THE NATIONAL ASSOCIATION OF FEDERAL EQUITY RECEIVERS.

CURRICULUM VITAE

SUSAN D. VAVAK

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Ms. VAVAK IS THE DIRECTOR – RECEIVERSHIP MANAGEMENT FOR THE THOMAS SEAMAN COMPANY. HER RESPONSIBILITIES INCLUDE DIRECTING REAL PROPERTY MANAGEMENT, LEASING AND DISPOSITIONS, OVERSEEING OPERATING COMPANIES, AND MANAGING CORPORATE DISSOLUTIONS.

Ms. VAVAK HAS OVER 25 YEARS OF EXPERIENCE WORKING ON COMPLEX FINANCING TRANSACTIONS AND DISTRESSED LOANS SECURED BY RESIDENTIAL AND COMMERCIAL REAL ESTATE. Ms. VAVAK'S REAL ESTATE EXPERIENCE INCLUDES REO ASSET MANAGEMENT, LOAN WORKOUTS AND FORECLOSURES, ASSET RE-POSITIONING, LOAN UNDERWRITING, LEGAL DOCUMENTATION, PROJECT MANAGEMENT AND ASSET DISPOSITIONS. Ms. VAVAK IS EXPERIENCED IN VIRTUALLY ALL PROPERTY TYPES INCLUDING OFFICE, RETAIL, MULTI-FAMILY, HOTELS, INDUSTRIAL AND RESIDENTIAL.

PRIOR TO JOINING THE THOMAS SEAMAN COMPANY, Ms. VAVAK SPENT 8 YEARS AS A VICE PRESIDENT AT TRIPACIFIC CAPITAL ADVISORS, LLC, A PENSION FUND ADVISOR SPECIALIZING IN VARIOUS TYPES OF FINANCING TRANSACTIONS FOR RESIDENTIAL LAND DEVELOPMENT AND HOME CONSTRUCTION. Ms. VAVAK WAS RESPONSIBLE FOR REVIEWING AND NEGOTIATING LEGAL DOCUMENTATION, CLOSINGS, SEC COMPLIANCE AND INSURANCE/RISK MANAGEMENT. DURING HER TENURE WITH TRIPACIFIC, Ms. VAVAK CLOSED 115 INVESTMENTS.

Ms. VAVAK HAS SERVED AS AN ASSISTANT VICE PRESIDENT IN THE COMMERCIAL REAL ESTATE GROUP OF LOWE ENTERPRISES, INC. WHERE SHE ACQUIRED VALUE-ADDED AND CORE COMMERCIAL REAL ESTATE ON BEHALF OF EIGHT PUBLIC PENSION FUNDS. PRIOR TO THIS, Ms. VAVAK WAS A VICE PRESIDENT AT AMRESKO, INC. WHERE SHE ORIGINATED SENIOR DEBT INVESTMENTS SECURED BY COMMERCIAL REAL ESTATE.

Ms. VAVAK WAS PREVIOUSLY A PROJECT MANAGER WITH BOEING REALTY CORPORATION WHERE HER RESPONSIBILITIES INCLUDED MANAGEMENT AND DISPOSITIONS OF CORPORATE REAL ESTATE ASSETS LOCATED NATIONWIDE. DISPOSITION WORK INCLUDED MAXIMIZING THE VALUE OF SURPLUS ASSETS THROUGH DEVELOPMENT AND ASSET RE-POSITIONING.

Ms. VAVAK WAS FORMERLY A PORTFOLIO MANAGER AT BOEING CAPITAL CORPORATION WHERE SHE LIQUIDATED A \$275 MILLION, 87 LOAN, NATIONWIDE COMMERCIAL REAL ESTATE LOAN PORTFOLIO. PORTFOLIO LIQUIDATION INCLUDED LOAN MODIFICATIONS AND WORK OUTS, FORECLOSURES, PURSUING GUARANTEE FUNDS, AND MANAGEMENT, RE-POSITIONING AND DISPOSITION OF REO ASSETS.

Ms. VAVAK EARNED A BACHELOR OF ARTS DEGREE IN ECONOMICS FROM THE UNIVERSITY OF IOWA IN 1983. Ms. VAVAK IS A LICENSED CALIFORNIA REAL ESTATE BROKER.

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Ms. GORDON IS A SEASONED FINANCIAL AND OPERATIONAL EXECUTIVE THAT HAS PROVIDED LEADERSHIP TO COMPANIES REQUIRING TURNAROUNDS, LOAN WORKOUTS, RECEIVERSHIPS AND BANKRUPTCIES. FOR OVER TWENTY YEARS, Ms. GORDON HAS ESTABLISHED A PROVEN TRACK RECORD IN MANAGING COMPANIES IN RECEIVERSHIP AND BANKRUPTCY FROM PRE-PETITION PLANNING THROUGH FIRST DAY MOTIONS, CLAIMS MANAGEMENT, PLAN CONFIRMATION AND POST-CONFIRMATION TRUST SERVICES.

Ms. GORDON HAS OVER 20 YEARS OF CONSULTING EXPERIENCE, INCLUDING ACCOUNTING, FINANCIAL ANALYSIS, MODELING, FINANCIAL ADVISORY WORK, CASH FLOW FORECASTING AND ANALYSIS OF MACROECONOMIC TRENDS IMPACTING THE VARIOUS INDUSTRIES. HER DEMONSTRATED MANAGEMENT AND LEADERSHIP ABILITIES COVER A WIDE RANGE OF INDUSTRIES, INCLUDING REAL ESTATE, CONSTRUCTION, PRINTING, MANUFACTURING, TELECOMMUNICATIONS, INTERNET RETAIL, HEALTHCARE, AND PROPERTY MANAGEMENT.

Ms. GORDON'S RECENT ACCOMPLISHMENTS INCLUDE SERVING AS FINANCIAL ADVISOR TO THE DEBTOR FOR MPC COMPUTERS, LLC AND ITS SUBSIDIARIES, A \$300 MILLION COMPUTER MANUFACTURING BUSINESS. Ms. GORDON OVERSAW THE PRE-BANKRUPTCY PLANNING, PROVIDING INFORMATION AND INSIGHT INTO THE FIRST DAY ORDERS, PREPARATION OF THE SOFAS AND SCHEDULES, CLAIMS MANAGEMENT AND PREFERENCE ANALYSIS. SHE WAS THE PRIMARY LIAISON WITH THE FINANCIAL ADVISORS TO THE CREDITORS' COMMITTEE AND WORKED CLOSELY WITH COUNSEL AND EXECUTIVE MANAGEMENT TO MOVE THE CASE SMOOTHLY THROUGH THE CHAPTER 11 PROCESS. Ms. GORDON WAS ALSO INSTRUMENTAL IN OVERSEEING THE INITIAL \$1.5 BILLION DISTRIBUTION TO CREDITORS IN THE REFCO, INC. MATTER WITHIN TWO WEEKS OF PLAN CONFIRMATION. SHE ALSO WORKED ON A SUCCESSFUL ELECTRONIC DISCOVERY PROJECT IN SUPPORT OF GOOGLE'S PURCHASE OF DOUBLECLICK.

Ms. GORDON HAS SERVED AS A MANAGING DIRECTOR FOR FOCUS MANAGEMENT GROUP AND WAS A DIRECTOR FOR ALIXPARTNERS, A NATIONAL MANAGEMENT CONSULTING FIRM. Ms. GORDON LAUNCHED THE CASE MANAGEMENT SERVICES (CMS) PRACTICE FOR XROADS SOLUTIONS GROUP AND LED THE CMS CLAIMS TEAM IN THE SUCCESSFUL TURNAROUND OF WINN-DIXIE, A CHAIN OF OVER 900 GROCERY STORES IN THE SOUTHEASTERN UNITED STATES. Ms. GORDON ALSO OVERSAW ONE OF THE TEAMS IN THE SUCCESSFUL TURNAROUND OF INTREPID USA, INC., A HOME HEALTH CARE BUSINESS BASED IN MINNESOTA WITH OVER 300 OFFICES THROUGHOUT THE COUNTRY.

Ms. GORDON WAS RETAINED BY INTERNET RETAILER, ETOYS, INC., TO OVERSEE THE WIND DOWN AND LIQUIDATION UNDER CHAPTER 11. AT ITS HEIGHT, ETOYS HAD OPERATIONS WORLDWIDE, \$130 MILLION IN SALES AND A MARKET CAP OF OVER \$8 BILLION. HER TEAM PROVIDED ON-SITE SERVICES THROUGHOUT THE ENTIRE WIND DOWN. HER EXPERIENCE ALSO INCLUDES PROVIDING CASE MANAGEMENT SERVICES FOR INTREPID, INC., A HOME HEALTH CARE PROVIDER WITH OVER 300 OFFICES THROUGHOUT THE UNITED STATES. SHE LED THE TEAM ON THE ADVANCED TELCOM GROUP, INC. CHAPTER 11 ENGAGEMENT FROM PRE-BANKRUPTCY PLANNING, THROUGH THE 363 SALE AND POST-CONFIRMATION TRUST SERVICES.

Ms. GORDON RECEIVED HER BACHELOR OF ARTS DEGREE IN ECONOMICS FROM CLAREMONT MCKENNA COLLEGE AND A MASTERS OF BUSINESS ADMINISTRATION, WITH HONORS, FROM CHAPMAN UNIVERSITY. SHE IS ALSO A CERTIFIED INSOLVENCY AND RESTRUCTURING ADVISOR (CIRA).

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Ms. JUROE SERVES AS A PROJECT MANAGER AT THOMAS SEAMAN COMPANY. SHE HAS OVER 10 YEARS EXPERIENCE IN ADMINISTRATION, PROJECT COORDINATION, AND MANAGEMENT. IN SIX YEARS WITH THOMAS SEAMAN COMPANY SHE HAS WORKED ON OVER 30 RECEIVERSHIP CASES, SUPPORTING THE RECEIVER IN ALL ASPECTS OF THE RECEIVERSHIP PROCESS, INCLUDING TAKEOVER AND MANAGEMENT, PROPERTY MANAGEMENT, LIQUIDATION AND SALE OF ASSETS AND REAL PROPERTY, FINANCIAL REPORTING AND ANALYSIS, FORENSIC AND OTHER ACCOUNTING SERVICES, AND LITIGATION SUPPORT.

Ms. JUROE IS RESPONSIBLE FOR PERFORMING OR MANAGING THE FOLLOWING TASKS AT THOMAS SEAMAN COMPANY FOR RECEIVERSHIP CASES;

- ACCOUNTING & BOOKKEEPING
- FORENSIC ACCOUNTING AND FUNDS TRACING
- DOCUMENT INVESTIGATION
- ASSET RECOVERY
- ASSET DISPOSITION
- REAL PROPERTY MANAGEMENT
- CLAIMS ADMINISTRATION - CLAIMS PROCESS, INVESTOR COMMUNICATIONS, DISTRIBUTIONS
- HUMAN RESOURCES - PAYROLL, BENEFITS, 401K
- LITIGATION SUPPORT - ISSUING AND RESPONDING TO SUBPOENAS
- TAXES - FEDERAL & STATE INCOME TAXES, PAYROLL TAXES, 1099 ISSUANCE, QUALIFIED SETTLEMENT FUND RETURNS

MEMBER, ASSOCIATION OF CERTIFIED FRAUD EXAMINERS

CURRICULUM VITAE
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MR. McDONNELL IS A PROJECT MANAGER FOR THE THOMAS SEAMAN COMPANY. HE HAS WORKED AT THE THOMAS SEAMAN COMPANY SINCE DECEMBER, 2006. HIS RESPONSIBILITIES AT THE FIRM INCLUDE ASSISTING WITH THE OPERATION OF DISTRESSED BUSINESSES, NEGOTIATING AND PREPARING LEASES, PROPERTY MANAGEMENT, INTERACTING WITH GOVERNMENTS TO ACHIEVE NEEDED CERTIFICATIONS, REPAIR AND MAINTENANCE OF PROPERTIES, DISPOSITION OF ASSETS AND UPDATING A WEBSITE. HE HAS PERFORMED FIDUCIARY WORK ON 60 DIFFERENT STATE OR FEDERAL COURT RECEIVERSHIPS AND ONE LARGE FAMILY TRUST. HE HAS PARTICIPATED IN THE SALES TRANSACTIONS OF 37 REAL PROPERTIES AND TWO AUCTIONS OF PERSONAL PROPERTY.

PRIOR TO JOINING THE THOMAS SEAMAN COMPANY, MR. McDONNELL WORKED AS AN INDEPENDENT MANAGEMENT CONSULTANT TO THE VICE PRESIDENT FOR CUSTOMER SERVICE AT US SEARCH.COM, A RECORDS SEARCH COMPANY. MR. McDONNELL PROVIDED ANALYSIS OF CALL CENTER EFFICIENCY TO BETTER SCHEDULE SALES, CUSTOMER SERVICE AND OPERATIONS WORK. AT THE FIRM HE INSTITUTED CROSS-TRAINING OF AGENTS TO BETTER USE PERIODS OF VOLATILE CALL VOLUME WHICH LED TO A SIGNIFICANT IMPROVEMENT IN CUSTOMER SERVICE AND REDUCED THE COST OF CALL CENTER STAFFING BY OVER \$400,000 ANNUALLY. HE ALSO PERFORMED PRICE ELASTICITY ANALYSIS TO BETTER RATIONALIZE PRICING SOLD VIA INTERNET AND TELEVISION ADVERTISING.

MR. McDONNELL WAS PREVIOUSLY AN OPERATIONS ANALYST FOR THE NORDSTROM COMPANY FOR THREE YEARS. MR. McDONNELL COMBINED HISTORICAL CALL VOLUMES WITH UPCOMING MARKETING PROGRAMS TO MODEL STAFFING REQUIREMENTS FOR A 300 AGENT CALL CENTER BY THE FIFTEEN MINUTE INTERVAL. MR. McDONNELL WAS ABLE TO BUILD THESE MODELS SO THAT 90% OF ALL SALES AND CUSTOMER SERVICE CALLS WERE HANDLED WITHIN 10 SECONDS OF BEING PLACED. MR. McDONNELL ALSO BUILT AN INCENTIVE PROGRAM USED BY MANAGEMENT TO IMPROVE SALESMANSHIP OF THE PHONE AGENTS AND PROMOTE EFFICIENCY AND TIMELINESS OF AGENT WORK. MR. McDONNELL ALSO MANAGED A REDUCTION OF UNNEEDED LABOR HOURS TO SAVE \$300,000 IN YEARLY COSTS.

WHILE STUDYING FOR HIS MASTERS DEGREE, MR. McDONNELL WORKED FOR A YEAR AT A STARTUP REAL ESTATE INVESTMENT ADVISOR FOCUSED ON SENIORS HOUSING, COLUMBIA DUBRIN REALTY ADVISORS CONDUCTING RESEARCH ON OVER FORTY DIFFERENT REAL ESTATE INVESTMENT TRUSTS (REITs) AND COMMUNICATED WITH THESE REITs TO INTRODUCE THE FIRM. HE INITIATED THE FIRST \$30M FINANCING CONDUCTED BY THE FIRM. HE ALSO CONDUCTED MARKET RESEARCH, DUE DILIGENCE AND FINANCIAL ANALYSIS ON PROPOSED LOCATIONS FOR ASSISTED LIVING FACILITIES IN WASHINGTON, ALABAMA AND TEXAS. HE ALSO WORKED FOR FIVE YEARS AS A LICENSED INVESTMENT REPRESENTATIVE FOR TWO SMALL MORTGAGE LENDERS AND A FULL SERVICE BROKERAGE. MR. McDONNELL ALSO OWNED AND OPERATED A CUSTOM PRINTING COMPANY WHILE AN UNDERGRAD.

MR. McDONNELL EARNED A BACHELOR OF ARTS DEGREE IN HISTORY FROM THE UNIVERSITY OF WASHINGTON IN 1988 AND A MASTERS IN BUSINESS ADMINISTRATION DEGREE FROM SEATTLE UNIVERSITY IN 1996. HE IS CURRENTLY STUDYING FOR THE CALIFORNIA REAL ESTATE BROKER AND SERIES-65 INVESTMENT ADVISOR LICENSES.

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Ms. CHESKI IS THE PARALEGAL FOR THE THOMAS SEAMAN COMPANY. HER RESPONSIBILITIES INCLUDE DRAFTING LEGAL DOCUMENTS AND CORRESPONDENCE, LEGAL RESEARCH, AND MONTHLY CASE REPORTING. Ms. CHESKI PERFORMS DUE DILIGENCE TASKS INCLUDING REVIEW OF EXISTING RECEIVERSHIP ESTATE INSURANCE POLICIES, PROCUREMENT OF NEW INSURANCE POLICES IF NECESSARY AS WELL PROPERTY TAX RESEARCH.

Ms. CHESKI HAS 5 YEARS OF LEGAL EXPERIENCE INCLUDING TAX AND ESTATE PLANNING, REAL ESTATE TRANSACTIONS, SEC FILINGS, AND BUSINESS AND TRANSACTIONAL LAW. Ms. CHESKI ALSO BRINGS 3 YEARS OF EXPERIENCE IN FINANCIAL TRANSACTIONS SECURED BY COMMERCIAL REAL ESTATE. WHILE AT THE THOMAS SEAMAN COMPANY, Ms. CHESKI HAS BEEN ABLE TO UTILIZE BOTH HER LEGAL AND FINANCIAL BACKGROUND.

PRIOR TO JOINING THE THOMAS SEAMAN COMPANY, Ms. CHESKI WAS EMPLOYED BY LEHMAN BROTHERS BANK'S SMALL BUSINESS FINANCE DIVISION. Ms. CHESKI WORKED IN LOAN ORIGATION ON THE STRUCTURING, PRICING AND INITIAL FINANCIAL ANALYSIS OF STATED AND FULL DOCUMENTATION COMMERCIAL LOAN REQUESTS. DURING HER TIME AT LEHMAN BROTHERS BANK, Ms. CHESKI WAS INTEGRAL IN THE FINANCING OF MORE THAN \$25M OF COMMERCIAL REAL ESTATE.

Ms. CHESKI ALSO WORKED IN LEHMAN BROTHERS BANK'S LOAN SERVICING DEPARTMENT WHERE SHE SPECIALIZED IN INSURANCE REVIEW. Ms. CHESKI'S RESPONSIBILITIES INCLUDED REVIEWING AND REVISING COMMERCIAL HAZARD AND FLOOD INSURANCE COVERAGE TO ENSURE THE BANK'S INTEREST WAS SUFFICIENTLY PROTECTED AND TO COMPLY WITH THE TERMS OF THE LOAN AGREEMENT.

Ms. CHESKI WAS PREVIOUSLY A LEGAL ASSISTANT FOR VALENSI ROSE, PLC, A LOS ANGELES LAW FIRM FOCUSED ON THE ASSET PRESERVATION OF THEIR CLIENTS. Ms. CHESKI'S DUTIES INCLUDED BUSINESS ENTITY FORMATION AND DISSOLUTION, DRAFTING OF ESTATE PLANNING DOCUMENTS, PROPERTY TAX REASSESSMENT EXCLUSIONS AND REAL ESTATE TITLE TRANSFERS.

Ms. CHESKI EARNED A BACHELOR OF ARTS DEGREE IN POLITICAL SCIENCE FROM THE UNIVERSITY OF CALIFORNIA LOS ANGELES IN 2001. Ms. CHESKI IS A LICENSED NOTARY PUBLIC.

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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 SMALL BUSINESS CAPITAL CORP.;
MARK FEATHERS; INVESTORS PRIME
17 FUND, LLC; and SBC PORTFOLIO FUND,
LLC,

18 Defendants.
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Case No. 5:12-CV-03237-EJD

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
OPPOSITION TO DEFENDANT MARK
FEATHERS' MOTION AND AMENDED
FRCP 12 MOTION TO DISMISS THE
LAWSUIT, MOTION TO INSTRUCT
RECEIVER TO DISCONTINUE FORENSIC
WORK AND MOTION TO DISMISS THE
RECEIVER AND INVALIDATE ALL
PRIOR REPORTS TO THE COURT, FRCP
11 MOTION FOR SANCTIONS AGAINST
THE PLAINTIFF'S OFFICERS JOHN
BULGOZDY AND SUSAN HANNAN (Dkt.
Nos. 273 & 274 & 275)**

Date: May 10, 2013
Time: 9:00 A.M.
Place: Courtroom 4, 5th Floor
(Hon. Edward J. Davila)

1 Plaintiff Securities and Exchange Commission (“Commission”) opposes the most recent
2 motion of defendant Mark Feathers (“Feathers”) which again asks the Court to dismiss the
3 Commission’s Complaint pursuant to Fed. R. Civ. P. 12, instruct the Receiver to discontinue
4 forensic work and to dismiss the Receiver and invalidate all prior reports to the Court, and for
5 Fed. R. Civ. P. 11 sanctions against counsel for the Commission, John Bulgozdy and Susan
6 Hannan. *See* Dkt. Nos. 273 (motion), 274 (amended motion), and 275 (second amended
7 motion).

8 Feathers’ motion is based on a single statement in the Recommendation by Plaintiff
9 Securities and Exchange Commission That Thomas A. Seaman Be Appointed Receiver, filed
10 June 21, 2012. *See* Dkt. No. 6. In that filing, the Commission recommended that Mr. Seaman
11 be appointed by the Court as an independent receiver over the entity defendants. In support of
12 that recommendation, the Commission attached a copy of Mr. Seaman’s qualifications and a
13 letter setting forth additional information for the Court’s consideration. *Id.* The Commission
14 stated that it obtained proposals from two other qualified receiver candidates and offered to
15 provide those submissions to the Court, if the Court so desired. *Id.* at 1:16-18. The Commission
16 then stated three reasons why it recommended Mr. Seaman. *Id.* at 1:19-2:3. The third stated
17 reason was that in addition to being an experience receiver, “Mr. Seaman is a licensed CPA and
18 has extensive experience operating and resolving distressed businesses, and these two
19 qualifications may be of substantial assistance to the Court in this matter.” *Id.* at :1:22-2:2.

20 It is only a portion of this last sentence – specifically the statement that Mr. Seaman is a
21 “licensed CPA” – that is the basis of Feathers’ motion. Feathers states that Mr. Seaman is not a
22 licensed certified public accountant, or “CPA.” Mr. Seaman is not a licensed certified public
23 accountant. As stated in Mr. Seaman’s curriculum vitae, Mr. Seaman is a highly qualified and
24 experienced licensed chartered financial analyst, or “CFA.” *Id.* at Ex. 1. Counsel for the
25 Commission believes that the reference to “CPA” was, regrettably, a typographical error. We
26 believe that we intended to state that Mr. Seaman was a “CFA.” Counsel for the Commission
27 apologizes for this typographical error.

1 However, this does not warrant dismissal of the Commission’s case, dismissal of the
2 Receiver, or imposition of sanctions upon counsel for the Commission. Mr. Seaman’s
3 qualifications were disclosed to the Court in Mr. Seaman’s curriculum vitae, attached to the
4 Commission’s recommendation, and in a letter proposal outlining his rates and how he would
5 proceed. *Id.* Ex. 1. Mr. Seaman’s resume states that he is “a former CFO and Controller, and is
6 a Chartered Financial Analyst (CFA).” *Id.* Mr. Seaman’s resume also states that he has “strong
7 accounting skills and experience as a financial analyst [which] have been beneficial in litigation
8 requiring reconstruction of books and records.” *Id.* Mr. Seaman’s qualifications include a
9 Bachelor of Science degree in finance from the University of Illinois in 1979, and a CFA license
10 obtained in 1993. *Id.* Mr. Seaman’s firm is licensed by the State of California as a Registered
11 Investment Adviser and as a California Real Estate Broker, and Mr. Seaman is a member of the
12 Institute of Chartered Financial Analysts, the Los Angeles Society of Financial Analysts, the
13 California Receiver’s Forum, the Orange County Bar Association as a non-lawyer, and is a
14 founding member of the National Association of Federal Equity Receivers. *Id.*

15 Mr. Seaman’s letter also provided information to the Court about his qualifications and
16 his billing rates. Mr. Seaman also outlined the “Scope of Work” that he anticipated performing.
17 Mr. Seaman also discussed professionals that he would hire, including the Allen Matkins law
18 firm, the accounting firm of Crowe Horwath if necessary, and Huron Consulting Group for
19 forensic computer work. *Id.*

20 In neither his letter nor his curriculum vitae does Mr. Seaman claim to be a certified
21 public accountant. *See id.* The Court should be confident that its Receiver did not provide any
22 misleading information to the Court. Counsel for the Commission did not intend to mislead the
23 Court through a typographical error. In addition, there is no requirement that a receiver be
24 licensed as a CPA, and in fact, many receivers in federal, and state, court actions are not CPAs.
25 In many instances, receivers employ outside accounting firms to provide accounting services at
26 substantial additional cost to the receivership estate. Mr. Seaman’s strong accounting skills and
27 experience as a financial analyst gives him the knowledge and experience to reconstruct books
28

1 and records without employing an outside accounting firm, and therefore without burdening the
2 receivership estate with that added layer of expense.

3 Because the Court had Mr. Seaman's curriculum vitae and lengthy written proposal, the
4 Court had ample evidence to make a determination to appoint Mr. Seaman. A typographical
5 error in the Commission's filing does not support dismissal of the case, setting aside the
6 Receiver's work over the past several months, dismissal of the Receiver, or sanctions against
7 counsel for the Commission. Therefore, the Commission respectfully requests that Defendant
8 Feathers' motion to dismiss, and related motions, be denied in all respects.

9
10 DATED: March 8, 2013

Respectfully submitted,

11
12
13 /s/ John B. Bulgozdy _____

John B. Bulgozdy

Susan F. Hannan

Attorneys for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648
Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On March 8, 2013, I caused to be served the document entitled **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S OPPOSITION TO DEFENDANT MARK FEATHERS' MOTION AND AMENDED FRCP 12 MOTION TO DISMISS THE LAWSUIT, MOTION TO INSTRUCT RECEIVER TO DISCONTINUE FORENSIC WORK AND MOTION TO DISMISS THE RECEIVER AND INVALIDATE ALL PRIOR REPORTS TO THE COURT, FRCP 11 MOTION FOR SANCTIONS AGAINST THE PLAINTIFF'S OFFICERS JOHN BULGOZDY AND SUSAN HANNAN (Dkt. Nos. 273 & 274 & 275)** on all the parties to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

UNITED PARCEL SERVICE: By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: March 8, 2013

/s/ Javier Delgadillo
Javier Delgadillo

1 **SEC v. SMALL BUSINESS CAPITAL CORP, et al.**
2 **United States District Court – Northern District of California**
3 **San Jose Division**
 Case No. 5:12-CV-03237-EJD
 LA-4141

4 **SERVICE LIST**

5
6 **Mark Feathers (via Email and U.S. Mail)**

7 **Email:** [REDACTED]

8 **Los Altos, CA** [REDACTED]

9 ***Pro Se Defendant Mark Feathers***

10 **David Zaro, Esq. (via ECF)**

11 **Allen Matkins Leck Gamble Mallory & Natsis LLP**

12 **515 S. Figueroa Street, 9th Floor**

13 **Los Angeles, CA 90071**

14 **Email: *dzaro@allenmatkins.com***

15 ***Attorney for Receiver Thomas Seaman over Defendants Small Business Capital***
16 ***Corp.; Investors Prime Fund, LLC; And SBC Portfolio Fund, LCC***