



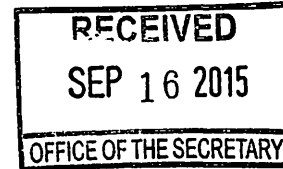
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400
NEW YORK, NY 10281-1022

NANCY A. BROWN
TELEPHONE: (212) 336-1023
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September 15, 2015

VIA EMAIL AND UPS OVERNIGHT

Hon. Cameron Elliot
Administrative Law Judge
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D. C. 20549-2557



Re: In the Matter of Sands Brothers Asset Management, LLC, et al.
Admin. Proc. File No. 3-16223

Dear Judge Elliot:

We represent the Division of Enforcement ("Division") in the above-referenced matter.

We write to object to Respondent Christopher Kelly's ("Kelly") request to the Court, dated September 13, 2015, for the issuance of nine Subpoenas. Although the Rules of Practice contemplate that the Division may move to quash the Subpoenas once they are issued, we hope that the Court will consider the points made below before issuing the Subpoenas, so that such motion practice may be avoided.

Kelly's request for the Subpoenas is untimely. Neither prior to filing his motion for Summary Disposition, nor in response to the Division's opposition to that motion did Kelly ever seek Subpoenas for documents to support his defenses. Now, however, he requests the Court's issuance of nine Subpoenas seeking a tremendous volume of documents that will threaten to upset a pre-hearing schedule to which Kelly himself agreed only last week. It seems unlikely that Subpoena recipients could produce the volume of emails and other documents that Kelly seeks by November 9, 2015, the date on which the hearing is to commence. It seems nearly impossible that they could produce responsive documents by October 8, 2015, the date on which the parties will exchange exhibits, to which Kelly also agreed, or otherwise produce responsive documents in time for the parties to properly respond to or digest them.

Kelly has provided no justification to excuse this belated request. He can make no claim, for example, that he only just learned of the procedure for obtaining documents in an AP. If by June he had not already apprised himself of Rule of Practice 232, Kelly obtained specific guidance from the Court on how to obtain Subpoenas at the June 17, 2015 Pre-hearing Conference. (See Transcript of the June 17, 2015 Pre-hearing Conference, at 17-18.) But Kelly

made no request thereafter for Subpoenas, waiting instead nearly three months to request them at the eleventh hour.

More specifically, and in addition to the general concerns about scheduling raised above (applicable to all the Subpoenas), many of Kelly's requested Subpoenas seek documents already in his custody or control, documents previously produced to him, or documents that appear to be irrelevant to the issues remaining to be resolved.¹

1. The Subpoena to the Division Is Unduly Burdensome Because It Seeks Documents Within Kelly's Custody or Control, or Equally Available to Him

Kelly's proposed subpoena to the Division seeks, in part, Division's counsel phone records reflecting calls between counsel and Kelly himself, from February 2014 through April 2014. But these records are no more within the Division's possession or control than they are within Kelly's and, accordingly, the subpoena to the Division is in this respect unduly burdensome. Courts routinely decline to compel production of materials in the possession of one party when they are equally available from other sources. Absent any showing that Kelly is unable to obtain these documents from his own phone carrier or his own records, Kelly may not shift the burden of procuring these materials to the Division.

2. The Subpoenas Seek Documents Already Produced

Kelly's proposed subpoena to Cornick Garber & Sandler, LLP ("CGS"), the Funds' auditors, duplicates what the Division already subpoenaed from CGS and turned over to Kelly as part of the investigative record on June 26, 2015, after Kelly requested it. See Division Investigative Subpoena to CGS, dated April 2, 2014 ("All Documents Concerning Communications between CGS, on the one hand, and SBAM or the Funds, on the other hand [for the period January 1, 2009 to the present].") (copy enclosed).²

Also seeking documents already produced is Kelly's proposed subpoena to the Division for "[a]ll materials whatsoever relating to its communications or other dealings with the Gusrae

¹ Under Rule of Practice 232, the Court can "require the person seeking the subpoena to show the general relevance and reasonable scope of the . . . evidence sought" before issuing the requested subpoena, and Kelly should be directed to do so. This is particularly so here, where (1) the issues for resolution have been narrowed by the Court's decision on Summary Disposition, and (2) Kelly made no arguments on his own motion for Summary Disposition (or in opposition to the Division's) that would make the documents produced by these parties relevant.

² On November 5, 2014, pursuant to Rule of Practice 230, the Division notified both Kelly and his then-counsel that its investigative file was available for inspection and copying, but neither Kelly nor his counsel responded. At the prehearing conference on June 17, 2015, Kelly first requested the documents and the Division sent them to him on June 26, 2015.

Kaplan Nusbaum PLLC law firm in connection with this matter.” On June 26, 2015, the Division produced to him (among other documents) all written communications in its possession between it and Gusrae Kaplan Nusbaum PLLC. The production consisted of all such communications Division counsel had identified after a thorough and good faith search of its files, including e-mails.

3. The Subpoenas Seek Irrelevant Documents

In addition, many of the proposed Subpoenas seek documents that appear to have no bearing on the central issue that remains for resolution—the degree of egregiousness involved in SBAM’s admitted violations of the Custody Rule, or the Respondents’ level of responsibility for them. For example, Kelly seeks SBAM’s “general ledgers,” SBAM’s “communications or other dealings with SBAM tax preparer Mr. Tanner,” SBAM’s “credit card statements,” “records sufficient to show nonpayments to attorneys for fees due,” and “a list of attorneys/law firms not paid in full by SBMA or SBAM affiliates.”

Of similar irrelevance is the Subpoena to Greenwich Fund Services, by which Kelly seeks “evidence of reimbursements to [him] when [he] used his own credit card on behalf of [SBAM].” None of these categories of documents relates to the degree of scienter or negligence with which SBAM failed to comply with the Custody Rule, or to the degree of scienter or negligence with which any Respondent aided and abetted or caused those violations.

Also unclear is the relevance of the information Kelly seeks from various law firms SBAM apparently retained between 2010 and 2013. For example, Kelly asks the Court to issue a Subpoena to SBAM counsel, Reed Smith, seeking “[a]ll invoices to [SBAM] and SBAM affiliates,” and “all emails relating to same.” Putting aside the volume of materials that Reed Smith would have to review and produce, and the delay such a production would cause, Kelly has not explained why such documents are relevant (or, for that matter, why they are not privileged). In support of his motion for summary disposition, Kelly made no argument that Reed Smith was ever consulted about Custody Rule issues by him or anyone else at SBAM (and nor did SBAM or the Sands). Neither he nor anyone else made any mention of the law firms Wyatt Tarrant & Combs LLP, Gilbride Tusa Last & Spellane LLC, or Blank Rome, either, firms to which other requested Subpoenas are directed. Yet those law firms would also be required to produce “all invoices” sent to SBAM and “all emails relating [to those invoices]” for a four year period.

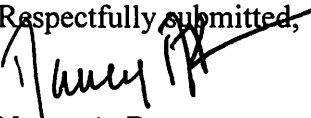
Finally, the lack of relevance is another ground for rejecting Kelly’s request for a Subpoena to the Division. Kelly has made, and can make, no showing regarding the relevance of phone records reflecting calls between him and the Division in early 2014. As the Court is aware, the conduct at issue occurred, even broadly speaking, between 2009 and the end of 2013. The Division’s communications with Kelly as a part of its investigation of that conduct is not relevant to Kelly’s scienter or negligence at the time of the events at issue, and Kelly has already argued otherwise unsuccessfully. See Order, entered August 31, 2015, at 18-19 (concluding that the Division did not act improperly in communicating with Kelly’s former counsel).

Hon. Cameron Elliot

September 15, 2015
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For these reasons, the Division respectfully requests that the Court deny Kelly's request for the issuance of the nine Subpoenas.

Respectfully submitted,



Nancy A. Brown

cc (via email w/ encls.):

Gus Coldebella, Esq. (Counsel for Respondent SBAM)
Matthew Rossi, Esq. (Counsel for Respondents S. Sands and M. Sands)
Christopher Kelly, Esq. (Pro Se)



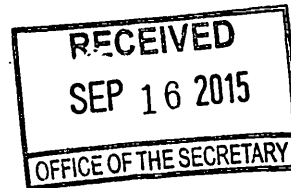
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
200 VESEY STREET
ROOM 400
NEW YORK, NEW YORK 10281-1022

WRITER'S DIRECT LINE
(212) 336-9144
berkej@sec.gov

April 2, 2014

Via Email & Overnight Mail

Leonard Weinstock
Cornick, Garber & Sandler, LLP
825 Third Avenue
New York, NY 10022-9524



Re: In the Matter of SBAM Venture Capital Funds (NY-08127)

Dear Mr. Weinstock:

The staff of the Division of Enforcement in the New York Regional Office of the United States Securities and Exchange Commission is conducting an investigation in the matter identified above. The enclosed subpoena has been issued pursuant to a formal order entered into by the Commission and requires Cornick, Garber & Sandler, LLP ("CGS") to produce the documents described in the attachment to the subpoena by **April 18, 2014**. All materials, including the cover letter and a copy of the attached subpoena, should be sent to the following address:

ENF-CPU
U.S. Securities and Exchange Commission
100 F St., N.E., Mailstop 5973
Washington, DC 20549-5973

For smaller electronic productions, under 10MB in size, the materials may be emailed to: ENF-CPU@sec.gov. Passwords for documents, files, compressed archives, and encrypted media should be provided separately either via email addressed to ENF-CPU@sec.gov, or in a cover letter mailed separately from the data.

Please carefully read the subpoena attachment, which contains, among other things, important instructions related to the manner of producing documents. In particular, please note that if you prefer to send us copies of original documents, **the staff requests that you scan and produce hard copy documents, as well as electronic documents, in an electronic format consistent with the SEC Data Delivery Standards attached hereto. All electronic documents responsive to the document subpoena, including all metadata, should be produced in their native software format.** If you have any questions concerning the production of documents in an electronic format, please contact me as soon as possible.

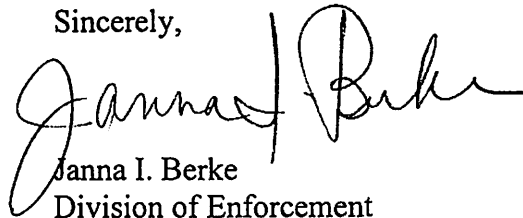
In your cover letter(s) accompanying the production of responsive documents, please enclose a list briefly describing each item you send. The list should state to which paragraph(s) in the subpoena attachment each item responds. Please also state in the cover letter(s) whether you believe CGS has met its obligations under the subpoena by searching carefully and thoroughly for everything called for by the subpoena, and sending it all to us. A copy of the subpoena should be included with the documents that are produced.

In addition, for any documents that qualify as records of regularly conducted activities under Federal Rule of Evidence 902(11), please have the appropriate representative(s) of CGS complete a business records certification (a sample of which is enclosed) and return it with the document production.

The information you provide is subject to the Commission's routine uses. A list of those uses, as well as other important information, is contained in the enclosed copy of SEC Form 1662. This investigation is confidential and nonpublic and should not be construed as an indication by the Commission or its staff that any violation of law has occurred, nor as a reflection upon any person, entity, or security.

If you have any questions or would like to discuss this matter, you may call me at (212) 336-9144.

Sincerely,



Janna I. Berke
Division of Enforcement

Enclosures: Subpoena and Attachment
SEC Data Delivery Standards
SEC Form 1662
Business Records Certification



SUBPOENA
UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

In the Matter of SBAM Venture Capital Funds (NY-8127)

To: Cornick, Garber & Sandler, LLP
825 Third Avenue
New York, NY 1022-9524

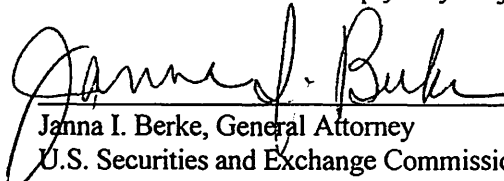
YOU MUST PRODUCE everything specified in the Attachment to this subpoena to officers of the Securities and Exchange Commission, at the place, date and time specified below:

ENF-CPU, U.S. Securities and Exchange Commission, 100 F St., N.E., Mailstop 5973,
Washington, DC 20549-5973, no later than **April 18, 2014** at 5:00 p.m.

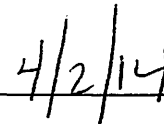
FEDERAL LAW REQUIRES YOU TO COMPLY WITH THIS SUBPOENA.

Failure to comply may subject you to a fine and/or imprisonment.

By:


Janna I. Berke, General Attorney
U.S. Securities and Exchange Commission
New York Regional Office
200 Vesey Street, Suite 400
New York, NY 10281-1022
Phone: (212) 336-0176

Date:



I am an officer of the U.S. Securities and Exchange Commission authorized to issue subpoenas in this matter. The Securities and Exchange Commission has issued a formal order authorizing this investigation under Section 20(a) of the Securities Act of 1933, Section 21(a) of the Securities Exchange Act of 1934, and Section 209(a) of the Investment Advisers Act of 1940.

NOTICE TO WITNESS: If you claim a witness fee or mileage, submit this subpoena with the claim voucher.

SUBPOENA ATTACHMENT
Cornick, Garber & Sandler, LLP
Dated April 2, 2014

I. DEFINITIONS

Unless otherwise stated, the terms set forth below are defined as follows:

- A. "CGS" shall mean Cornick, Garber & Sandler, LLP, and any of its parent corporations, subsidiaries, affiliates, predecessors, successors, shareholders, owners, partners, officers, executives, directors, principals, trustees, joint-venturers, employees, consultants, agents, accountants, attorneys, or any representative acting or purporting to act on behalf of CGS, wherever located.
- B. "SBAM" shall mean Sands Brothers Asset Management, LLC, and any of its parent corporations, subsidiaries, affiliates, predecessors, successors, shareholders, owners, partners, officers, executives, directors, advisers, fund managers, principals, trustees, joint-venturers, employees, consultants, agents, attorneys, or any representative acting or purporting to act on behalf of SBAM, wherever located, including, but not limited to, Steven Sands, Martin Sands, Christopher Kelly, Ervin Braun, Hugh Marasa, Jr., David Claroni, Sands Brothers Asset Management, Ltd., Sands Brothers & Co., Ltd, Sands Brothers International, Ltd., Julios Trust, and Targhee Trust.
- C. "Funds" shall mean all investment funds and pooled investment vehicles currently or previously managed by and/or affiliated with SBAM, including, but not limited to, Sands Brothers Venture Capital, LLC, Sands Brothers Venture Capital II, LLC, Sands Brothers Venture Capital III, LLC, Sands Brothers Venture Capital IV, LLC, Katie and Adam Bridge Partners, L.P., Granite Associates LLC, 280 Ventures, LLC, Genesis Merchant Partners, L.P., Genesis Merchant Partners II, L.P., Vantage Point Partners, LP. The term "Funds" shall also include any affiliated entities, predecessors, successors, shareholders, partners, officers, executives, directors, fund managers, advisers, principles, trustees, attorneys, agents, representatives, or employees of the aforementioned Funds, wherever located.
- D. "Relevant Period" shall mean **January 1, 2009 to the present.**
- E. "Document" shall include, but is not limited to, any written, printed, or typed matter including, but not limited to all drafts and copies bearing notations or marks not found in the original, letters and correspondence, interoffice communications, slips, tickets, records, worksheets, financial records, accounting documents, bookkeeping documents, memoranda, reports, manuals, telephone logs, telegrams, facsimiles, messages of any type, telephone messages, voice mails, tape recordings, notices, instructions, minutes, summaries, notes of meetings, file folder markings, and any other organizational indicia, purchase orders, information recorded by photographic process, including microfilm and

microfiche, computer printouts, spreadsheets, and other electronically stored information, including but not limited to writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations that are stored in any medium from which information can be retrieved, obtained, manipulated, or translated.

- F. “Concerning” means directly or indirectly, in whole or in part, referring to, relating to, alluding to, pertaining to, regarding, describing, discussing, mentioning, memorializing, evidencing, involving, embodying, constituting, recording, evaluating, substantiating, in connection with, commenting on, showing, analyzing or reflecting.
- G. “Person” means a natural person, firm, association, organization, partnership, business, trust, corporation, bank or any other private or public entity.
- H. “Communication” means any correspondence, contact, conversation, discussion, e-mail, instant message, or any other kind of oral or written exchange or transmission of information (in the form of facts, ideas, inquiries, or otherwise), including any response thereto, between two or more Persons or entities. “Communication” includes, without limitation, telephone conversations, face-to-face meetings or conversations, internal or external discussions, or exchanges of a Document or Documents.
- I. An “Agreement” means any actual or contemplated (i) written or oral Agreement; (ii) term or provision of such Agreement; or (iii) amendment of any nature or termination of such Agreement. A request for any Agreement among or between specified parties includes a request for all Documents Concerning (i) any actual or contemplated Agreement among or between such parties, whether or not such Agreement included any other Person; (ii) the drafting or negotiation of any such Agreement; (iii) any actual or contemplated demand, request or application for any such Agreement, and any response thereto; and (iv) any actual or contemplated objection or refusal to enter into any such Agreement, and any response thereto.
- J. The term “you” and “your” means the Person or entity to whom this subpoena was issued.
- K. To the extent necessary to bring within the scope of this subpoena any information or Documents that might otherwise be construed to be outside its scope:
 - a. the word “or” means “and/or”;
 - b. the word “and” means “and/or”;
 - c. the functional words “each,” “every,” “any,” and “all” shall each be deemed to include each of the other functional words;

- d. the masculine gender includes the female gender and the female gender includes the masculine gender; and
- e. the singular includes the plural and the plural includes the singular.

II. INSTRUCTIONS

1. Unless otherwise specified, the subpoena calls for production of the original Documents and all copies and drafts of same. Documents responsive to this subpoena may be in electronic or paper form. Electronic Documents such as email should be produced in accordance with the attached Document entitled SEC Data Delivery Standards. All electronic Documents responsive to the Document subpoena, including all metadata, should also be produced in their native software format.
2. For Documents in paper format, you may send the originals, or, if you prefer, you may send copies of the originals. The Commission cannot reimburse you for the copying costs. If you are sending copies, the staff requests that you scan (rather than photocopy) hard copy Documents and produce them in an electronic format consistent with the SEC Data Delivery Standards. Alternatively, you may send us photocopies of the Documents in paper format. If you choose to send copies, you must secure and retain the originals and store them in a safe place. The staff may later request or require that you produce the originals.
3. Whether you scan or photocopy Documents, the copies must be identical to the originals, including even faint marks or print. Also, please note that if copies of a Document differ in any way, they are considered separate Documents and you must send each one. For example, if you have two copies of the same letter, but only one of them has handwritten notes on it, you must send both the clean copy and the one with notes.
4. In producing a photocopy of an original Document that contains post-it(s), notation flag(s), or other removable markings or attachments which may conceal all or a portion of the markings contained in the original Document, photocopies of the original Document both with and without the relevant post-it(s), notation flag(s), or removable markings or attachments should be produced.
5. Documents should be produced as they are kept in the ordinary course of business or be organized and labeled to correspond with the categories in this request. In that regard, Documents should be produced in a unitized manner, *i.e.*, delineated with staples or paper clips to identify the Document boundaries.
6. Documents should be labeled with sequential numbering (bates-stamped).
7. You must produce all Documents created during, or Concerning, the period **January 1, 2009 to the present**, unless otherwise specified.
8. The scope of any given request should not be limited or narrowed based on the fact that it calls for Documents that are responsive to another request.
9. You are not required to produce exact duplicates of any Documents that have been previously produced to the Securities and Exchange Commission staff in

connection with this matter. If you are not producing Documents based upon a prior production, please identify the responsive Documents that were previously produced.

10. This subpoena covers all Documents in or subject to your possession, custody or control, including all Documents that are not in your immediate possession but that you have the effective ability to obtain, that are responsive, in whole or in part, to any of the individual requests set forth below. If, for any reason – including a claim of attorney-client privilege – you do not produce something called for by the request, you should submit a list of what it is not producing. The list should describe each item separately, noting:
 - a. its author(s);
 - b. its date;
 - c. its subject matter;
 - d. the name of the Person who has the item now, or the last Person known to have it;
 - e. the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents;
 - f. the basis upon which you are not producing the responsive Document;
 - g. the specific request in the subpoena to which the Document relates;
 - h. the attorney(s) and the client(s) involved; and
 - i. in the case of the work product doctrine, the litigation for which the Document was prepared in anticipation.
11. If Documents responsive to this subpoena no longer exist because they have been lost, discarded, or otherwise destroyed, you should identify such Documents and give the date on which they were lost, discarded or destroyed.
12. These requests for Documents and information are continuing in nature so as to require prompt further and supplemental responses if you obtain, discover, or generate additional documents or information after the initial response pursuant to the request.

III. Documents and Information Requested

Please produce the following Documents and information for the Relevant Period:

1. All Documents Concerning Communications between CGS, on the one hand, and SBAM or the Funds, on the other hand.
2. All Documents Concerning Agreements, between CGS, on the one hand, and SBAM or the Funds, on the other hand, including any engagement letters.
3. Documents sufficient to identify the names of any CGS employee who participated in the audit of any Fund, including Documents sufficient to identify how much time each employee devoted to the audit of any Fund.
4. All notes, diaries and calendar entries relating to meetings, contacts, or conversations with SBAM or with any Fund.
5. All Documents and Communications Concerning delays in the audit of any Fund or delays in the completion of the Independent Auditors' Report for any Fund.
6. All Documents and Communications Concerning the failure to timely receive information relating to the audit of any Fund from SBAM or any third party.
7. All Documents and Communications Concerning the failure of SBAM to meet deadlines set by federal laws, regulations or rules, or any internal deadlines.
8. For each audit performed by CGS for any of the Funds, an index of all audit workpapers relating to such audit.