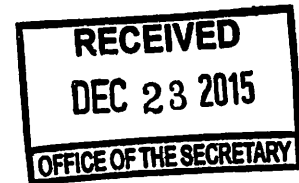


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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-16354



In the Matter of

David B. Havanich, Jr.,  
Carmine A. DellaSala,  
Matthew D. Welch, Richard  
Hampton Scurlock, III,  
Retirement Tax Advisory  
Group, Jose F. Carrio, Dennis  
K. Karasik, Carrio, Karasik  
& Associates, LLP, and  
Michael J. Salovay,

Respondents.

**DIVISION OF ENFORCEMENT'S REPLY IN  
SUPPORT OF ITS MOTION FOR SUMMARY  
DISPOSITION AGAINST RESPONDENT  
MICHAEL J. SALOVAY ON THE ISSUES OF  
DISGORGEMENT, PREJUDGMENT INTEREST,  
AND CIVIL PENALTIES**

The Division of Enforcement ("Division") submits the following Reply in Support of its Motion for Summary Disposition Against Respondent Michael J. Salovay ("Salovay") on the Issues of Disgorgement, Prejudgment Interest, and Civil Penalties:

With respect to Salovay's inability-to-pay argument, his financial condition "may be considered," but "it is only one factor. Considering it is also discretionary . . ." *Johnny Clifton*, Securities Act Rel. No. 9417, 2013 WL 3487076, \*16 n.116 (July 12, 2013). To the extent the Law Judge considers ability to pay, that factor "should be given less weight" in determining disgorgement than in determining the penalty amount, because "disgorgement is designed to reverse unjust enrichment, and giving ability to pay significant weight in the disgorgement context would create a perverse incentive for securities law violators to spend ill-gotten gains quickly and without restraint." *Scott Stephan*, Initial Decision Release No. 888, 2015 WL

5637557, \*4 (Sept. 25, 2015). Accordingly, the Division would request that any consideration of Salovay's ability to pay be limited to the amount of civil penalty.

December 22, 2015

Respectfully submitted,



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SECURITIES AND EXCHANGE COMMISSION  
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**CERTIFICATE OF SERVICE**

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303, and that a true and correct copy of the foregoing has been served by U.S. Mail, on this 22nd day of December, 2015, on the following persons entitled to notice:

The Honorable Carol Fox Foelak  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

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Mr. Michael J. Salovay  
[REDACTED]  
Pittsburgh, PA [REDACTED]

  
\_\_\_\_\_  
Andrew O. Schiff, Esq.