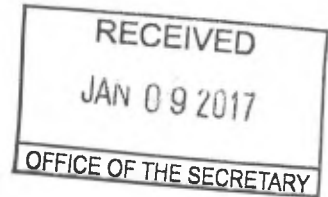


HARD COPY

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**



**ADMINISTRATIVE PROCEEDING
File No. 3-17387**

In the Matter of

**DONALD F. ("JAY") LATHEN, JR.,
EDEN ARC CAPITAL
MANAGEMENT, LLC,
and EDEN ARC CAPITAL
ADVISORS, LLC,**

Respondents.

DECLARATION OF NANCY A. BROWN

I, Nancy A. Brown, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am employed as a Senior Trial Counsel in the Division of Enforcement (the "Division"). I submit this declaration in further support of the Division's Motion to Compel Third Party Hinckley Allen to Comply with the Subpoena, or to Preclude Respondents from Offering Testimony or Evidence Regarding Their Reliance on the Advice of Hinckley Allen. I am fully familiar with the facts and circumstances herein.

Respondents' Compliance with the December 14, 2016 Order

2. On December 29, 2016, Respondents informed us that they had reversed their position on the Galbraith documents that were the subject of our Motion to Compel, dated December 19, 2016, and would agree that the Division could review them. Because they refused to confirm that position in writing, they elected to file their Opposition Memorandum of Law on December 29, 2016. That Motion is sub judice.

The Division's Interview of Ms. Farrell of Hinckley Allen

3. In the Division's December 16, 2016 interview of Ms. Farrell, a partner at Hinckley Allen who worked on the Respondents' engagement, she advised us that:
- a. She had been involved in the firm's review of the documents in connection with the firm's response to the Division's Subpoena in this action; and
 - b. Her review of the documents refreshed her recollection to some extent of the matters she addressed in the representation of Respondents.

Exhibits

4. Appended hereto as Exhibit A is a true and correct copy of the Revised Privilege Log submitted by Hinckley Allen to the Division on January 5, 2017.
5. Appended hereto as Exhibit B are true and correct copies of the biographies of the following Hinckley Allen lawyers, taken from the firm's website:

Margaret Farrell

Steven Carlotti

Robert Petix

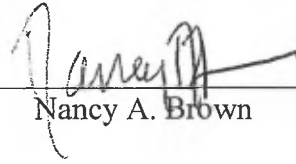
Justine Clark

Matthew Doring

6. In their original production, Hinckley Allen produced several documents reflecting solely internal communications and drafts. For example, attached as Exhibit C is a true and correct copy of an email chain between Farrell, Briggs and Flanders relating to Briggs' research on the validity of the joint tenancies under New York law. Similarly, attached as Exhibit D is true and correct copy of an email from Mancini to Farrell attaching a draft of the "Caramadre Memo."

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

Executed on January 6, 2017
New York, NY



A handwritten signature in black ink, appearing to read "Nancy A. Brown", is written over a solid horizontal line. The signature is cursive and somewhat stylized.

Nancy A. Brown

EXHIBIT A

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS004438	HAS004348	09/13/12	Mancini, Jacquelyn	Farrell, Margaret		Attachment to Internal communication regarding draft Participant Agreement . Redline revisions to agreement reflect attorney work products in anticipation of litigation	Attorney Work Product
HAS004425	HAS004426	09/27/13	Farrell, Margaret	Massey, William		Drafts of letter regarding Goldman Sachs. Draft letter from HAS to Massey with no evidence ever shared with client	Attorney Work Product
HAS004435	HAS004457	11/18/13				Attorney notes -internal thought process	Attorney Work Product
HAS004442	HAS004457					Internal drafts of Participant Agreement ; Discretionary Line Agreement; Power of Attorney; Profit Sharing Agreement. Redlined agreement reflects attorney work product in anticipation of litigation	Attorney Work Product
HAS004492	HAS004495					Internal Research performed by attorneys	Attorney Work Product
HAS004496	HAS004502					Internal Research performed by attorneys	Attorney Work Product
HAS004503	HAS004511					Internal Research performed by attorneys	Attorney Work Product
HAS004512	HAS004515					Internal Research performed by attorneys	Attorney Work Product
HAS004516	HAS004518					Internal analysis by attorney in anticipation of litigation.	Attorney Work Product
HAS004519	HAS004521					Internal analysis by attorney in anticipation of litigation.	Attorney Work Product
HAS004522	HAS004525					Internal analysis by attorney in anticipation of litigation.	Attorney Work Product
HAS004526	HAS004529					Internal Research performed by attorneys.	Attorney Work Product
HAS004530	HAS004532					Internal Research performed by attorneys	Attorney Work Product
HAS004533	HAS004533					Internal Research performed by attorneys	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS004534	HAS004542					Internal Research performed by attorneys	Attorney Work Product
HAS004543	HAS004551					Internal Research performed by attorneys	Attorney Work Product
HAS004552	HAS004559					Internal Research performed by attorneys	Attorney Work Product
HAS004560	HAS004591					Internal research and analysis by attorney in anticipation of litigation	Attorney Work Product
HAS004594	HAS004595					Internal analysis by attorney	Attorney Work Product
HAS004596	HAS004598	06/21/12				email between Flanders and Farrell regarding advice to give to client on potential litigation risks	Attorney Work Product
HAS004600	HAS004602					Attorney thought processes in anticipation of litigation	Attorney Work Product
HAS004606	HAS004607	09/12/12	Robinson, Michael	CL King and Associates		Handwritten notes containing unshared attorney mental impressions	Attorney Work Product
HAS004612	HAS004613					Internal research performed by attorneys.	Attorney Work Product
HAS004614	HAS004620					Internal analysis by attorney in anticipation of litigation.	Attorney Work Product
HAS004621	HAS004624					Internal analysis by attorney in anticipation of litigation.	Attorney Work Product
HAS004625	HAS004625	09/26/13	Briggs, Rebecca	Farrell, Margaret		Internal communications regarding research and draft documents to be performed in anticipation of litigation	Attorney Work Product
HAS004626	HAS004630	09/27/13	Briggs, Rebecca	Farrell, Margaret		Internal communications regarding research and draft documents to be performed in anticipation of litigation	Attorney Work Product
HAS004633	HAS004636	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		Internal communication regarding research to be performed in anticipation of litigation	Attorney Work Product
HAS004639	HAS004640	06/17/14	Clark, Justine	Farrell, Margaret		Internal communications regarding Revised Participant Agreement and Loan Document	Attorney Work Product
HAS004644	HAS004645	06/23/14	Clark, Justine	Farrell, Margaret		Internal communications regarding Revised Participant Agreement and Loan Document	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS004666	HAS004672	08/30/12	Mancini, Jacquelyn Al.	Farrell, Margaret		Draft memo to Lathan regarding guidance regarding Caramadre indictment (never sent to client)	Attorney Work Product
HAS004673	HAS004673	08/25/12	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		Internal communication regarding attorney mental impressions of revisions made in anticipation of litigation based on attorney internal analysis not shared with client	Attorney Work Product
HAS004674	HAS004678	08/00/12	Farrell, Margaret	Lathen, Jay		Draft memo to Lathan regarding guidance regarding Caramadre indictment (never sent to client)	Attorney Work Product
HAS004680	HAS004685	08/00/12	Farrell, Margaret	Lathen, Jay		Draft memorandum regarding guidance and Caramadre Indictment (never sent to client)	Attorney-Client
HAS004686	HAS004692	08/00/12	Farrell, Margaret	Lathen, Jay		Draft memorandum regarding guidance and Caramadre Indictment (never sent to client)	Attorney-Client
HAS004722	HAS004722	09/17/12	Mancini, Jacquelyn Al.	Farrell, Margaret		Internal communication regarding draft Participant Agreement and forms attached. Attorney mental impressions of revisions made in anticipation of litigation based on attorney internal analysis not shared with client.	Attorney Work Product
HAS004730	HAS004739					Relined Participant Agreement showing revisions made in anticipation of litigation based on attorney internal analysis not shared with client.	Attorney Work Product
HAS004754	HAS004753	09/17/12	Farrell, Margaret	Lathen, Jay		Draft memorandum regarding guidance and Caramadre Indictment showing revisions to the memobasedon internal mental impressions of attorneys not shared with client.	Attorney-Client
HAS004781	HAS004798	09/18/12				Redlined Discretionary Line Agreement showing changes that reflect mental impressions of attorneys in anticipation of litigation not shared with client.	Attorney Work Product
HAS004831	HAS004832	09/18/12	Doring, Matthew	Farrell, Margaret		Internal communication regarding revisions to Line Agreement. Mental impressions of revisions of Line Agreement made in anticipation of litigation based on attorney internal analysis not shared with client.	Attorney Work Product
HAS004848	HAS004849	06/23/14	Clark, Justine	Farrell, Margaret		Internal communication regarding Revised Participant Agreement and Loan document	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS004854	HAS004854	06/17/14	Clark, Justine	Farrell, Margaret		Internal communication regarding Revised Participant Agreement and Loan document	Attorney Work Product
HAS004859	HAS004859	06/17/14	Clark, Justine	Farrell, Margaret		Internal communication regarding Revised Participant Agreement and Loan document	Attorney Work Product
HAS004864	HAS004864					Internal communication regarding Revised Participant Agreement and Loan Document	Attorney Work Product
HAS004869	HAS004870	06/23/14	Farrell, Margaret	Clark, Justine		Internal communication regarding Revised Participant Agreement and Loan Document	Attorney Work Product
HAS004875	HAS004875	06/17/14	Farrell, Margaret	Clark, Justine		Internal communication regarding Revised Participant Agreement and Loan Document	Attorney Work Product
HAS004900	HAS004902	10/29/13	Flanders, Robert	Crisafulli, Marc; Petros, Gerald; Grimm, William	Farrell, Margaret; Reppucci, Charles	Internal memo discussing thought processes and legal strategy not shared with client	Attorney Work Product
HAS004903	HAS004909	08/23/12	Farrell, Margaret			Internal memo discussing thought processes and legal strategy not shared with client	Attorney Work Product
HAS004910		08/15/12	Farrell, Margaret	Mancini, Jacquelyn		Internal memo discussing thought processes and legal strategy not shared with client	Attorney Work Product
HAS004911	HAS004912	07/27/12	Galvin, Samantha	Farrell, Margaret		Internal memo discussing thought processes and legal strategy not shared with client	Attorney Work Product
HAS004913	HAS004914	07/27/12	Farrell, Margaret	Galvin, Samantha		Internal memo discussing thought processes and legal strategy not shared with client	Attorney Work Product
HAS004916	HAS004923	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		email chain discussing internal research in anticipation of litigation and attaching research – not shared with client	Attorney Work Product
HAS004924	HAS004925	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		email chain discussing internal research in anticipation of litigation and attaching research – not shared with client	Attorney Work Product
HAS004926	HAS004927					email chain discussing internal research in anticipation of litigation and attaching research – not shared with client	Attorney Work Product
HAS004928	HAS004931					email chain discussing internal research in anticipation of litigation and attaching research – not shared with client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS004932	HAS004976					email chain discussing internal research in anticipation of litigation and attaching research – not shared with client	Attorney Work Product
HAS004977	HAS004979	08/17/12	Petix, Robert	Farrell, Margaret		Email describing attorney research in anticipation of litigation not shared with client	Attorney Work Product
HAS004980	HAS004998					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS004999	HAS005005					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005006	HAS005009					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005010	HAS005012					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005013	HAS005019					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005020	HAS005021					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005022	HAS005023					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005024	HAS005025					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005026	HAS005028					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005029	HAS005030					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005031	HAS005037					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005038	HAS005043					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005044	HAS005045					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005046	HAS005068					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005069	HAS005069					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005070	HAS005100					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005101	HAS005107					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005108	HAS005117					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005118	HAS005125					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005126	HAS005130					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005131	HAS005132	07/24/12	Silver, Paul	Farrell, Margaret; Petix, Robert; Boghossian, Leon		Internal email between attorneys discussing attorney thought processes not shared with client	Attorney Work Product
HAS005133	HAS005136		Flanders, Robert	Farrell, Margaret		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005137	HAS005140	7/20/2013- 07/23/13	Flanders, Robert	Farrell, Margaret		Email chain between attorneys discussing thought processes about nature of advice to be provided to client in anticipation of litigation, but not shared with client	Attorney Work Product
HAS005141	HAS005145	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		Internal emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005147	HAS005148					draft letter discussing potential litigation positions, never shared with client	Attorney Work Product
HAS005149	HAS005154	09/26/13- 09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		Internal emails discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005155	HAS005156					draft letter discussing potential litigation positions, never shared with client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005157	HAS005158					draft letter discussing potential litigation positions, never shared with client	Attorney Work Product
HAS005159	HAS005163	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		Internalemails discussING internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005164	HAS005165	09/27/13	Briggs, Rebecca	Farrell, Margaret; Flanders, Robert		email discusses internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005166	HAS005167	09/27/13	09/27/13	09/27/13		emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005168	HAS005171					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005172	HAS005174					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005175	HAS005216					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005217	HAS005219	11/07/13- 11/08/13	Briggs, Rebecca	Flanders, Robert	Farrell, Margaret	Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005220	HAS005222	11/07/13	Briggs, Rebecca	Flanders, Robert		emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005223	HAS005224	11/07/13- 11/08/13	Briggs, Rebecca	Flanders, Robert	Farrell, Margaret	emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005227	HAS005228	09/27/13	Briggs, Rebecca	Flanders, Robert		emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005229	HAS005230					emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005231	HAS005233					emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005235	HAS005237	10/25/13	Briggs, Rebecca	Flanders, Robert		Internal correspondence discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005238	HAS005240	10/25/13	Briggs, Rebecca	Flanders, Robert		Internal correspondence discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005244	HAS005245	09/18/12	Farrell, Margaret	Doring, Matthew		Internal email between attorneys discussing attorney thought processes not shared with client	Attorney Work Product
HAS005247	HAS005254	09/18/12	Farrell, Margaret	Doring, Matthew		Internal email between attorneys discussing attorney thought processes not shared with client	Attorney Work Product
HAS005272	HAS005274	08/17/12	Potito, Stacey	Farrell, Margaret		Internal communication discussing internal thought processes and research in anticipation of litigation not shared with the client	Attorney Work Product
HAS005277	HAS005280					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005281	HAS005287					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005288	HAS005291					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005292	HAS005294					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005295	HAS005301					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005302	HAS005303					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005304	HAS005305					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005306	HAS005307					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005308	HAS005310					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005311	HAS005312					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005313	HAS005319					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005321	HAS005321	10/29/13-10/30/2013	Petros, Gerald	Flanders, Robert; Crisafulli, Marc; Grimm, William; Farrell, Margaret	Reppucci, Charles	Internal Emails discussing litigation strategy thought processes not shared with client	Attorney Work Product
HAS005325	HAS005330					Internal research performed by attorneys in anticipation of litigation not shared with client	
HAS005331	HAS005336					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005337	HAS005340	7/20/12-7/23/12	Flanders, Robert	Farrell, Margaret		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005341	HAS005342	11/18/11	Flanders, Robert	Flanders, Robert		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005343	HAS005345	7/20/12-7/23/12	Flanders, Robert	Farrell, Margaret		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005348	HAS005349	7/20/12-7/23/12	Flanders, Robert	Farrell, Margaret		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005356	HAS005357	07/20/12	Flanders, Robert	Farrell, Margaret		Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005358	HAS005362	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005363	HAS005367	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005368	HAS005372	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005373	HAS005379	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005380	HAS005382					draft letter to Massey revealing litigation strategy not shared with client and never sent	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Reviser/Supervisor	Description	Privilege
HAS005383	HAS005385					Internal communication regarding drafting responsive letter	Attorney Work Product
HAS005386	HAS005389	09/27/13	Flanders, Robert	Briggs, Rebecca	Farrell, Margaret	emails discuss internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005390	HAS005392					draft letter to Begelman revealing litigation strategy not shared with client and never sent	Attorney Work Product
HAS005393	HAS005394	09/21/13	Flanders, Robert	Falcoa, Donna	Farrell, Margaret	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005395	HAS005396	09/25/13	Flanders, Robert	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005397	HAS005398	11/30/12-12/2/2012	Flanders, Robert	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005399	HAS005401	09/25/13	Flanders, Robert	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005406	HAS005408	09/25/13	Flanders, Robert	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005409	HAS005410	9/26/13-9/27/13	Briggs, Rebecca	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005411	HAS005413	9/26/13-9/27/13	Briggs, Rebecca	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005414	HAS005415					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005416	HAS005417	9/26/13-9/27/13	Briggs, Rebecca	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005418	HAS005421					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005422	HAS005424					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005425	HAS005466					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005467	HAS005471	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005472	HAS005472	09/26/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005473	HAS005475	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005477	HAS005478					draft letter to Begelman revealing litigation strategy not shared with client and never sent	Attorney Work Product
HAS005480	HAS005481					draft letter to Massey revealing litigation strategy not shared with client and never sent	Attorney Work Product
HAS005484	HAS005489	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005490	HAS005493					Internal research performed by attorneys in anticipation of litigation not shared with client	Attorney Work Product
HAS005494	HAS005499	9/26/13-9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005500	HAS005501					draft letter to Massey revealing litigation strategy not shared with client and never sent	Attorney Work Product
HAS005502	HAS005503					draft letter to Massey revealing litigation strategy not shared with client and never sent	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005504	HAS005507	9/26/13- 9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005509	HAS005510					draft letter to Massey revealing litigation strategy not shared with client and never sent	Attorney Work Product
HAS005511	HAS005515	9/26/13- 9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005517	HAS005522	9/26/13- 9/27/13	Flanders, Robert	Farrell, Margaret	Briggs, Rebecca	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005524	HAS005525					Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005527	HAS005528					Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005529	HAS005529	08/15/12	Farrell, Margaret	Mancini, Jacquelyn		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005530	HAS005530	07/20/12	Galvin, Samantha	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005531	HAS005533					Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005534	HAS005534					Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005535	HAS005536	07/20/12	Galvin, Samantha	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product

Hinckley Allen Snyder's Revised Privilege Log
 Response to the SEC's Subpoena re: Donald Lathen, Jr. et al.
 Admin. Proc. File No. 3-17387

1/5/2017

Bates Begin	Bates End	Date	Author	Recipient	Recipients copied	Description	Privilege
HAS005537	HAS005539					Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005540	HAS005541	07/20/12	Galvin, Samantha	Farrell, Margaret		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005597	HAS005598	07/20/12	Farrell, Margaret	Flanders, Robert		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005599	HAS005600	9/26/13- 9/27/13	Farrell, Margaret	Kalenkiewicz, Linda		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005601	HAS005603	09/25/13	Farrell, Margaret	Flanders, Robert		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005604	HAS005607	09/25/13	Farrell, Margaret	Flanders, Robert		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005608	HAS005612	9/26/13- 9/27/13	Farrell, Margaret	Briggs, Rebecca; Flanders, Robert		Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product
HAS005613	HAS005613	10/02/13	Flanders, Robert	Farmer, Malcolm	Farrell, Margaret	Internal communication discussing internal thought processes in anticipation of litigation not shared with the client	Attorney Work Product

EXHIBIT B

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MARGARET D. FARRELL PARTNER

[Corporate & Business](#) • [Banking & Financial Institutions](#) • [Health Care](#) • [Mergers & Acquisitions](#) • [Securities](#) • [Private Equity & Venture Capital](#) • [International](#)

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BIOGRAPHY

chairs the firm's Securities Law Group and her practice in the area of corporate and securities law, with extensive experience in business capital formation, mergers and acquisitions (both domestic and cross border), corporate restructurings, strategic alliances, and corporate governance issues. She has broad expertise in securities law matters, including private equity and venture capital offerings and public debt and equity offerings, 1934 compliance issues, proxy contests, and

NEWS & INSIGHT

ADDITIONAL INFO

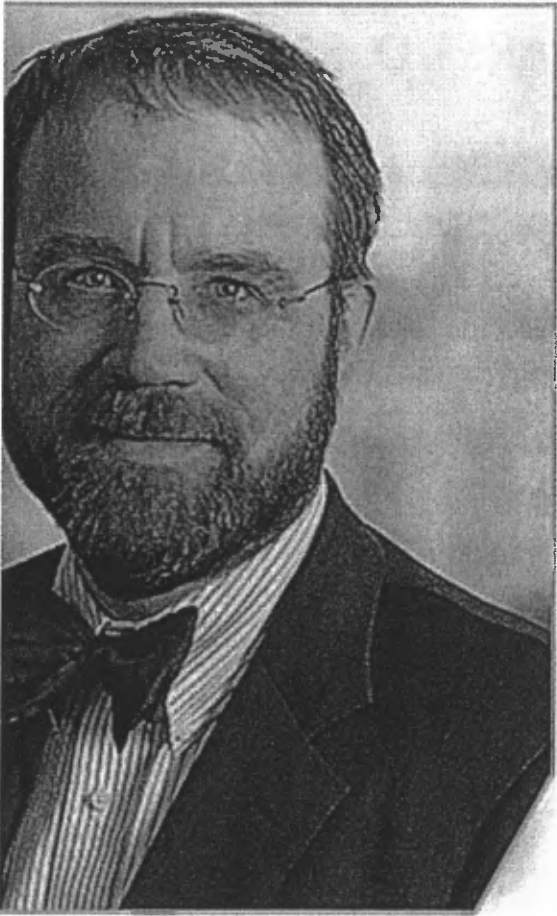
EDUCATION

- Georgetown University / University of Cincinnati, J.D. 1974
 - Order of the Coif
 - Law Review, Note Editor
- Smith College, A.B., 1971
 - cum laude

BAR MEMBERSHIPS

- Ohio. 1974

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ROBERT G. PETIX, JR.

PARTNER

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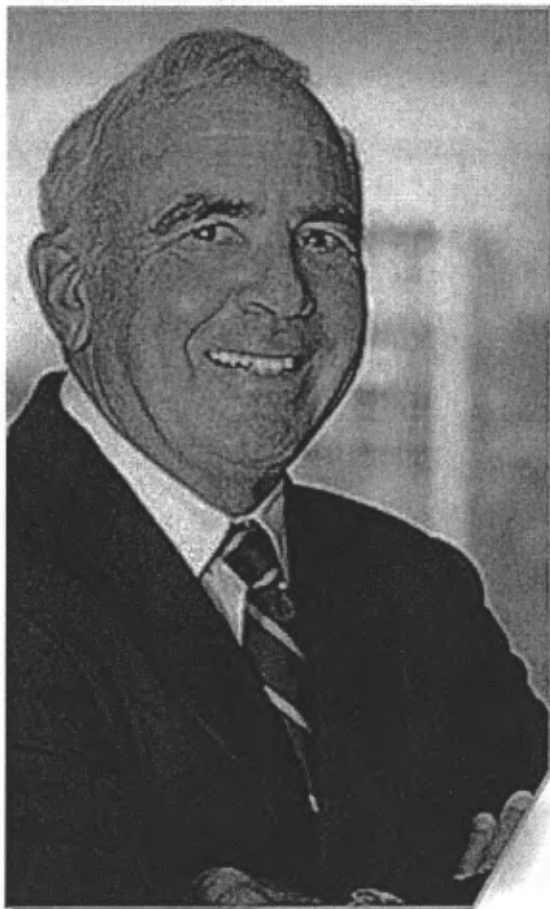
Practice focuses on advising individuals and on trust and estate matters for both U.S. and non-U.S. clients. He identifies, analyzes and develops solutions to wealth-transfer problems typically faced by his clients, including inter-generational asset transfer; U.S. estate, gift, generation-skipping and income tax planning; international tax planning; charitable planning; business sales and acquisitions; prenuptial agreements; and general trust and estate administration; and planning for

NEWS & INSIGHT

EDUCATION

- University of Georgia School of Law, J.D., 1997
 - magna cum laude
 - Order of the Coif
 - Phi Kappa Phi Honor Society
 - Georgia Federal Tax Award
 - **Editorial Board of the Georgia Law Review**
- Columbia University, A.B., 1986

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STEPHEN J. CARLOTTI

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BIOGRAPHY

practices in the areas of mergers and acquisitions, securities offerings, and general business management issues. He has served as counsel to a variety of businesses and governmental entities with a special emphasis on those engaged in manufacturing and distribution. He represents clients, both public and private, throughout the United States in the life insurance, insurance, and real estate industries. His other clients include business corporations in a variety of industries ranging from the jewelry industry to high

EXPERIENCE

EDUCATION

- Yale University, LL.B, 1966
 - Order of the Coif
- Dartmouth College, A.B., 1963
 - summa cum laude
 - Phi Beta Kappa

BAR MEMBERSHIPS

- Rhode Island, 1966
- United States Federal Courts (several circuits)

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BIOGRAPHY

Justine M. Clark comes to us from Carter Ledyard & Milburn in New York City. Her practice concentrates on representing financial institutions (transactional and regulatory), municipal finance, capital markets, structured financings and asset based-lending. Justine has extensive experience representing lenders in connection with structuring and servicing of senior and subordinated debt facilities both prior to and during securitization and has represented ratings agencies and underwriters in connection with the structuring, negotiation and documentation of master and servicing agreements. She regularly serves as a credit enhancement counsel or underwriter's

NEWS & INSIGHT

EDUCATION

- New York Law School, J.D., 1981
- Barnard College, B.S., 1977

BAR MEMBERSHIPS

- New York, 1982

WORK EXPERIENCE

- Hinckley Allen
 - Partner (2014 - Present)
- Carter Ledyard & Milburn LLP
 - Partner (2010 - 2014)

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MATTHEW P. DORING

PARTNER

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Matthew's practice is focused in the areas of corporate and business, with concentrations in commercial lending and tax-exempt financing, real estate finance and business law. He serves as legal counsel to institutional lenders, underwriters, issuers, and real estate investors and borrowers, and represents lenders and borrowers in second lien, equipment financing, and structured debt transactions. Matthew also assists

EXPERIENCE

EDUCATION

- Notre Dame Law School, J.D., 1997
 - Notre Dame Honors Law Scholar
- University of Notre Dame, B.A., 1994
 - Notre Dame Scholar

BAR MEMBERSHIPS

- Massachusetts, 1997

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EXHIBIT C

Message

From: Farrell, Margaret D. [/O=HASLAW/OU=PROVIDENCE/CN=RECIPIENTS/CN=FARRELMD]
Sent: 9/27/2013 3:48:51 PM
To: Briggs, Rebecca F. [/O=HASLAW/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Briggs, Rebecca F.586]; Flanders, Robert G. [/O=HASLAW/OU=Providence/cn=Recipients/cn=flanderg]
Subject: RE: Lathen
Attachments: Fwd: Goldman Sachs Bank USA

Becca:

This letter should be addressed to the Sidley Austin attorney. I have attached an email with his initial letter. Thanks.

Peggy

From: Briggs, Rebecca F.
Sent: Friday, September 27, 2013 11:11 AM
To: Flanders, Robert G.
Cc: Farrell, Margaret D.
Subject: RE: Lathen

Bob,

Attached is the redrafted letter with my edits in track changes. Please let me know if you would like my secretary, Cindy, to print this on letterhead and scan a version to be e-mailed to Mr. Begelman at Goldman.

-Becca

From: Flanders, Robert G.
Sent: Friday, September 27, 2013 10:58 AM
To: Briggs, Rebecca F.
Cc: Farrell, Margaret D.
Subject: RE: Lathen

Please redraft the responsive letter to the Sidley firm to include references to the authorities you have found for the propositions stated.

From: Briggs, Rebecca F.
Sent: Friday, September 27, 2013 10:35 AM
To: Farrell, Margaret D.; Flanders, Robert G.
Subject: RE: Lathen

It is accurate to say that they are presumed to be valid. I have not found any case explicitly using that language, but numerous cases note that compliance with the statute creates a presumption "that the depositors intended to create a joint tenancy with rights of survivorship." At that point, the challenging party bears the burden to rebut "the presumption that a valid joint tenancy had been intended and created." See, e.g., *In re Estate of Marocchi*, 117 A.D.2d 670, 671 (N.Y. App. Div. 1986).

From: Farrell, Margaret D.
Sent: Friday, September 27, 2013 10:30 AM
To: Briggs, Rebecca F.; Flanders, Robert G.
Subject: RE: Lathen

Is there phrase other than "tell the whole truth" that we might use?

From: Briggs, Rebecca F.
Sent: Friday, September 27, 2013 10:28 AM
To: Farrell, Margaret D.; Flanders, Robert G.
Subject: RE: Lathen

Peggy and Bob,

There is extensive support under NY law for both of the quoted statements regarding JTWR0S.

Although no NY case specifically states that documents which statutorily create a JTWR0S are presumed to "tell the whole truth," the sentiment is accurate. Numerous cases note that where an account has been formed in compliance with NY Banking Law § 675, it is presumed that the depositors intended to create a JTWR0S. See, e.g., *Matter of Stalter*, 270A.D.2d 594, 595 (N.Y. App. Div. 2000) (finding JTWR0S even where account was solely funded by one party). At that point, as noted in Mr. Lethen's letter, the challenging party bears the burden of providing "clear and convincing evidence" that the JTWR0S was not valid. See, e.g., *Matter of Grancaric*, 91 A.D.3d 1104, 1105 (N.Y. App. Div. 2012). The challenging party may rebut the presumption of a JTWR0S by providing evidence of fraud, undue influence, lack of capacity, or that the accounts were only opened as a matter of convenience and were never intended to be joint accounts. *Id.*

Please let me know if you would like any further information or research.

Best,

Becca

From: Farrell, Margaret D.
Sent: Thursday, September 26, 2013 5:09 PM
To: Flanders, Robert G.
Cc: Briggs, Rebecca F.
Subject: RE: Lathen

Attached is the draft letter. We are really looking for support for the quoted statements regarding Joint Tenants with right of Survivorship (JTWR0S) Accounts under NY law. I have also attached a copy of the Participation Agreement so you understand the structure/arrangement. I would be happy to answer any questions you might have.

Peggy

From: Flanders, Robert G.
Sent: Thursday, September 26, 2013 4:03 PM
To: Farrell, Margaret D.
Cc: Briggs, Rebecca F.
Subject: Lathen

Becca Briggs can work on this letter we need and the research to back it up.

Can you please send her what you have on the paperwork for the contracts at issue with a copy to me and let her know what we want her to do? Thanks

EXHIBIT D

Message

From: Mancini, Jacquelyn A. [/O=HASLAW/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MANCINJA]
Sent: 8/25/2012 8:03:59 PM
To: Farrell, Margaret D. [/O=HASLAW/OU=Providence/cn=Recipients/cn=FARRELMD]
Subject: EndCare
Attachments: Lathen - Memo re_ Caramadre # 3 50848846.DOCX

Peggy: I revised the attached memo based on our conversation last week. I left placeholders for sections related to the Partnership as a designee and Lathem pre-deceasing the Participants. I think you had said you wanted to address these topics. If not, maybe we can have a quick conversation early next week about your thoughts here and I can draft the language. Let me know.

Thanks.

Jackie

Jacquelyn A. Mancini
Associate | Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500 | Providence, RI 02903-2319
p 401.457.5214 | f 401.457.5215

MEMORANDUM

TO: Jay Lathen

FROM: Margaret D. Farrell

DATE: August ____, 2012

RE: EndCare Program - Guidance from the Caramedre Indictment

1. Introduction

You have advised that your business, EndCare Financial Assistance Program (“EndCare”), is exploring a for-profit securities investment venture (the “Program”), pursuant to which you will invest in certain securities that will typically contain a “survivor option” or similar feature (the “SO Investments”). You, through the partnership Eden Arc Capital Partners, LP (the “Partnership”), will purchase the SO Investments in joint accounts (the “Accounts”) with terminally ill individuals (“Participants”). Participants receive a \$10,000 one-time, up-front cash payment (the “Payment”). In exchange, Participants must disclose certain identifying information, including names, addresses, social security numbers, and dates of birth (the “Identifying Information”), which is used to set up the Accounts. This memorandum is in response to your request to provide a review and analysis of the Program in the context of Joseph Caramadre’s indictment related to activities similar to the Program.

In preparing this memorandum, we have reviewed the following documents (the “Program Documents”): (1) Financial Assistance Program brochure (the “Brochure”), (2) Participant Agreement (the “Participant Agreement”), (3) Financial Assistance Program – Application and Medical Release (the “Release”), (4) Limited Power of Attorney (the “POA”), (5) the Offering by Enden Arc Capital Partners, LP Confidential Private Placement Memorandum (the “Memo”) and (6) the Investment Management Agreement (the “Management Agreement”).

Survivor options, sometimes referred to as death puts, are optional redemption features on debt instruments that allow the investment to be sold back to the issuer at par prior to the maturity date in the event of the death of the owner. Though traditionally recognized as valid securities, certain practices whereby third parties purchase these instruments jointly in their own name and in the name of an unrelated individual near the end of his or her life have become controversial in the wake of Joseph Caramadre’s indictment.

2. The Caramadre Indictment

In November 2011, Joseph Caramadre (“Caramadre”), a Rhode Island estate planning attorney, and Raymour Radhakrishnan, one of Caramadre’s employees, were charged in a 66-count federal grand jury indictment (the “Indictment”) alleging that these men knowingly devised and intended to devise a scheme to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises.

The Indictment alleges that Caramadre committed fraud by making material misrepresentations and omissions to (i) terminally-ill and elderly people (and their families), (ii) insurance companies, (iii) bond issuers, and (iv) intermediaries, including brokerage houses and broker-dealers.

3. Program Analysis

The Indictment implicitly instructs that it is generally permissible to compensate individuals for use of Identifying Information, which is used to set up brokerage accounts to purchase certain securities, including survivor options. This practice, however, should be restricted, subject to the limits provided in the Indictment and further described below.

Certain allegations set forth in the Indictment are not addressed in this memorandum because they are not relevant to the Program. These claims relate to (a) Caramadre’s status as an attorney, (b) the purchase of annuities, and (c) activities involving insurance companies. It is our understanding that neither you nor your colleagues are, or are acting as, attorneys, and that the Program does not involve annuities or insurance companies.

a. Disclosure to Participants of Purpose and Intent

To avoid the claims set forth in the Indictment, EndCare must fully disclose to Participants its purpose and intent with respect to all aspects of the Program, including the following:

- that EndCare is not a philanthropic or charitable organization and that its intent is not to act philanthropically or charitably;
 - that the Payment may be the only money that the Participants will receive for participating in the Program;
 - that participation in the Program will require Participants to disclose Identifying Information
 - that Identifying Information will be used by EndCare to purchase SO Investments; and
 - that you, EndCare and the Partnership intend to profit from such investments.
-

The Program Documents do not indicate that the Program violates the forgoing. Such documents explain the general nature and intent of the Program, and specify the Program eligibility requirements. The Program Documents do not provide that EndCare’s purpose is to be a philanthropic or charitable organization, nor that you or EndCare’s employees are intending to act philanthropically or charitably, except to the extent that EndCare pledges to donate 15% of

profits to charities. The Participant Agreement specifically provides that a \$10,000 payment will be made to Participants and that any additional payments, which will not exceed \$15,000, are not guaranteed.

The Participant Agreement further provides that Participants must complete the POA and that Participants may be required to provide Identifying Information for the purpose of (a) opening the investment accounts used to purchase securities jointly in your name and in the name of Participants and (b) consulting with Participants' physicians to verify such Participants' medical condition. Additionally, the Brochure specifically provides that EndCare "expects to make a profit on the investments." This message is reiterated in the Participant Agreement, which provides, "Participants acknowledge that profits accruing to Lathen and Investors pursuant to this Agreement are likely to be substantially in excess of the initial payment to Participants."

b. Disclosure to Participants of Possible Financial Consequences

EndCare must not misrepresent to Participants whether their participation in the Program could expose them to liability for losses, including losses to the Accounts. It would be prudent to clarify or expand the following statement made in the Brochure: "there is no cost or risk to the participant" The risk (or lack thereof) should be similarly explained in the Participant Agreement.

Program documents must clearly set forth that the Payment, and any additional payments made pursuant to the Participant Agreement, are taxable income of the Participant, and that such payments are not gifts. The Participant Agreement merely provides that there may be "federal, state or local tax consequences to the Participants." The agreement must be modified to unequivocally express that such payments will be subject to tax. If applicable, the Participant Agreement should also provide that Participants will be required to complete Form 1099s in connection with the Program.

Further, Program documents must clearly set forth that the Payment, and any additional payments made pursuant to the Participant Agreement, could affect Participants' eligibility for insurance and certain government benefit programs, including Medicare and Medicaid.

With respect to Medicaid, the Participant Agreement provides that Payments "could be considered income or assets by Medicaid and could have an adverse impact on the Participant's eligibility to receive Medicaid benefits." The Brochure, however, provides that Payments do "not impact private insurance, Medicare, or Medicaid benefits. Special arrangements may be necessary for Medicaid participation in certain cases." These inconsistencies must be reconciled and clarified. Also, if any payments may impact private insurance, Participants should be made aware of such consequences.

c. Participant Consent

Participants must consent to participation in the Program. Specifically, Participants must consent to the use of their Identifying Information for the purposes that such information will be

used (i.e., to set up brokerage accounts to purchase investments in certain securities, including survivor options).

EndCare secures Participant consent by requiring Participant's to execute certain Program Documents that specify as follows:

- the Participant Agreement explains that certain Identifying Information may be used to purchase investments in certain securities, including survivor options;
- the Participant Agreement gives Participants the option to cancel or rescind consent to participation in the Program for three days following execution;
- the POA specifically grants you the power to open brokerage accounts and trade in securities in the name of the Participant; and
- the Release gives you and EndCare the right to receive certain Participant medical information and requires the Participant to acknowledge that its grant of such release is voluntary.

The Release includes a general request for applicant information, including Identifying Information and certain investment information, as well as the authorization for release of medical information. ~~Because of its dual function, the purpose of the Release may be unclear to~~ Participants. It may be prudent, therefore, for EndCare to provide Participants with two documents rather than the existing Release – one requesting applicant information generally and the other releasing medical information. Further, though stated in the Participant Agreement, any form requesting Identifying Information and/ or Participant signatures should specify for what purpose such information and/ or signatures will be used.

Several of the claims set forth in the Indictment relate to forged signatures, or signatures obtained by fraud or misrepresentation. It is critical, therefore, that Participant signatures on any Program documents be genuine. To protect against claims that signatures are illegitimate, signatures may be witnessed and/ or notarized. Such conduct is most valuable when the witness and/ or notary acts independently (i.e., does not have an interest in the transaction). These precautions will reduce, but cannot completely protect against, the risk of claims that signatures are forged.

d. Representations to Third Parties

EndCare must disclose to investors the nature and purpose of its activities. The indictment indicates that part of Caramadre's scheme to defraud was to represent to investors that he discovered a "loophole" permitting the use of terminally ill persons as "measuring lives," or annuitants, on annuities and co-owners on joint brokerage accounts used to purchase death put bonds. The indictment further indicates that part of Caramadre's scheme to defraud involved him entering into profit sharing agreements with outside investors, pursuant to which Caramadre received a significant percentage of all profits earned. The indictment does not explain, however, how the forgoing conduct specifically violates the law or otherwise contributes to Caramadre's alleged scheme to defraud.

Representations to third parties, including brokerage houses and broker-dealers, must not misrepresent Participants' contact information, Participants' finances, Participants' investment history, or the nature of the relationship between Participants and you and/ or EndCare. Further, such representations should not misrepresent the nature or intent of the Program. The indictment indicates that part of Caramadre's scheme to defraud was to tell brokerage houses that a portion of the invested funds came from the co-owners and that "succession plans" had been created in which the profits made in the accounts would flow to the estate of the co-owners upon their deaths. Further, the indictment alleges that Caramadre intentionally withheld from brokerage houses that the co-owners were terminally ill and that Caramadre attempted to conceal his true ownership of the securities by purchasing the securities in the names of his friends and relatives.

We cannot opine as to whether EndCare is exposed to any risk or liability with respect to the foregoing requirements because the analysis is fact-specific and depends on how you actually operate the Program. To the extent that you fully disclose the nature and intent of the Program to brokerage houses, it is unclear that such entities will agree to the arrangement. This represents a potential risk to you and your business.

e. Representations Involving Death Certificates

Representations to cities and towns to obtain Participants' death certificates may not contain misrepresentations. The Participant Agreement suggests that EndCare intends not to make misrepresentations to cities and town in this regard by requiring an agent of the Participant to assist in obtaining the relevant death certificate. Exposure, however, will depend on how you in-fact operate the Program.

f. Shared Commissions

To the extent that any EndCare employee shares commissions on the sale of annuities and other securities with licensed insurance agents, such employees must maintain current securities licenses.

g. Partnership as Designee

h. Pre-Deceasing the Participant