

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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ADMINISTRATIVE PROCEEDING
File No. 3-17393

In the Matter of CURTIS A. PETERSON Respondent.

RESPONDENT'S POST HEARING SUPPLEMENTAL BRIEF

Respondent Curtis Peterson, by and through undersigned counsel and pursuant to the Order Following Oral Argument hereby files this supplement brief and in support thereof states as follows:

I. COMPENSATION PAID TO INVESTORS BY RESPONDENT

After it was revealed that the investments in the VCM's were in actuality part of an elaborate Ponzi scheme Respondent attempted to compensate some of the aggrieved investors. Respondent compensated the first two aggrieved investors that contacted him, however, due to the frequency and volume of the requests after the Ponzi scheme was discovered Respondent decided he could not compensate all the investors seeking reimbursement. Additionally, the FBI had begun its investigation into the losses incurred by the investors. The checks representing the payments are attached hereto as Exhibit "A". The first two investors were compensated as follows:

DATE	CHECK NUMBER AND RECIPIENT	AMOUNT
February 4, 2014	Check No. 164 to Lydia Payne	\$3,300.00

February 5, 2014	Check No. 165 to Timothy Franklin	\$12,000.00
		TOTAL: \$15,300.00

II. DEFICIENCIES WITHIN THE SALLAH DECLARATION

Respondent has reviewed the Sallah declaration and has found that it is missing multiple investment payments that Respondent made to TBTI. The total amount of these investments should be included within Deposits/Credit column in Exhibit A attached to the declaration. As previously stated the payments to Respondent represented by Checks 4741, 4742, and 4746 were not related to the investments in the VCM's but were payments to Respondent for unrelated matters. The missing investment checks by Respondent and corresponding invoices are attached as Exhibit "B" and are as follows:

DATE	CHECK NO.	RECIPIENT	AMOUNT
11/30/2011	123	T.B.T.I, INC.	\$12,000.00
3/30/2012	128	T.B.T.I, INC.	\$45,000.00 (\$15,000.00 of which is for Respondent's investment)
6/30/2012	Wire Transfer	T.B.T.I, INC.	\$9,000.00
11/27/12	2892	T.B.T.I, INC.	\$6,000.00
TOTAL			\$42,000.00

Respondent reiterates that the checks and amounts included within the Sallah declaration included payments for the commissions and are not reflective of the actual investments Respondent made for the VCM's. Respondent invested \$450,000.00 and his return on the investment was \$416,400.00 resulting in a net loss of \$33,600.00.

III. FINANCIAL STATUS AT THE TIME PRIOR TO PARENTS' DEATH

When considering Respondent's total assets at the time of the death of his mother Respondent's portfolio contained approximately \$7,500.00 (See Exhibit "C") which was subsequently incorporated into the Morgan Stanley account detailed on the submitted Financial Affidavit in April 2015. Respondent attempted to settle this matter directly with the Receiver beginning in November 2014.

Disgorgement being remedial rather than punitive, see *S.E.C. v. Cavanagh*, 445 F.3d 105, 116 & n. 25 (2d Cir.2006), some end-date determination is certainly necessary so that the defendant is not required to disgorge profits not "causally connected to the violation." Arnold S. Jacobs, *Disclosures & Remedies Under the Securities Laws* § 20:109 (footnote omitted); cf. *S.E.C. v. MacDonald*, 699 F.2d 47, 52–55 (1st Cir.1983) (en banc) (holding that disgorgement was appropriate only as to the profits made prior to the time insider information was made public). So long as the end date chosen results in a "reasonable approximation" of illegal profits, *id.*, there is nothing wrong with the court itself determining that date. See, e.g., *SEC v. First Jersey Sec., Inc.*, 101 F.3d 1450, 1474–75 (2d Cir.1996) ("The district court has broad discretion not only in determining whether or not to order disgorgement but also in calculating the amount to be disgorged."). *U.S. S.E.C. v. Maxxon, Inc.*, 465 F.3d 1174, 1179 (10th Cir. 2006).

Here, Respondent would not be disgorging any received profits from the commissions rather if the full disgorgement amount is permitted it would necessarily be paid from an inheritance that was received long after Respondent had received any commissions from the sale of the VCM's. An order of full disgorgement would only have a punitive and not remedial effect for the purposes of returning any ill-gotten gains. The punitive nature of the full disgorgement amount would be compounded by the fact that the accounts which contain the inheritances are held in

tenancy by the entirety with Respondent's wife. It is settled that tenancies by the entirety are based upon the same four unities that support joint tenancies, that is, the unities of title, estate, time, and possession. However, it is also settled that tenancies by the entirety *are supported by a fifth unity which they do not share with any other tenancy: the unity of marriage*. That unity embodies the legal fiction that husband and wife are one. *In re Zella*, 196 B.R. 752, 755 (Bankr. E.D. Va.), aff'd, 202 B.R. 712 (E.D. Va. 1996). The classic basis for a tenancy by the entireties was the concept that the husband and wife are but one person in the law. *In re Etter*, No. 08-CV-13134, 2009 WL 270068, at *5 (E.D. Mich. Feb. 3, 2009). The inheritance money was to provide for Respondent's family which includes his [REDACTED] and a daughter that has recently been admitted to college. The cost of tuition and relevant statistics of Respondent's daughter's college is attached hereto as Exhibit "D".

IV. THE RECEIVER CASES WHICH DIRECTLY BENEFIT THE AGGRIEVED INVESTORS SETTLED FOR LESS THAN THE FULL AMOUNT

The Division argued that any disgorgement amount received from Respondent would be used for the benefit of any aggrieved investors therefore the disgorgement amount should not be reduced. Aside from the legal principal that disgorgement is not the same as restitution and is essentially meant to wrestle ill-gotten gains from the alleged wrongdoer. If that is the purpose of the disgorgement proceedings then Respondent should not be held to a different standard than the defendants in the case brought directly by the Receiver which was initially to include Respondent. While the settlement amounts are confidential, Respondent notes that the district judge issued eleven (11) orders approving settlements in the case *Securities and Exchange Commission v. JCS Enterprises, Inc. et al.* Case No.: 14-cv-80468-MIDDLEBROOKS and eight (8) orders approving settlements in the case *Sallah, James D. vs. Tanney, Pacheco, Episcopo, et al.*, Case No. 16-cv-80032-DMM. These cases undoubtedly settled for less than one hundred percent (100%) of what

they received in profits from the underlying scheme. As Respondent was to be included as a defendant in one of these cases in order to return any monies received from the VCM investments directly to the investors, he should be afforded the same opportunity to have his disgorgement payment reduced in order to reach an equitable resolution in this matter.

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. 20549-9309, and that a true and correct copy of the foregoing has been served by Federal Express on this 11th day of January, 2017, of the following persons entitled to notice:

Honorable Jason S. Patil
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E. Room 2557
Washington, D.C. 20549
alj@sec.gov

Russell Koonin
DIVISION OF ENFORCEMENT
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, FL 33131
kooninr@sec.gov



Michael V. Miller

VC CAPITAL CORP. 1290 MEADOW LARK AVE MIAMI SPRINGS, FL 33168	<u>Feb, 4, 2014</u> DATE	164 83-7790/2631 128
PAY TO THE ORDER OF	<u>Lydia Payne</u>	<u>\$ 3,300.00</u>
<u>Three Thousand Three Hundred and 00/100</u>		DOLLARS
SPACE COAST CREDIT UNION	Miami Springs, FL 33168	N
Fronted FOR <u>January 2014 commissions</u>	<u>Sammy G. Peters</u>	
		

Account: [REDACTED] Serial: 164 Amount: \$3,300.00 Sequence: 4707956 Date: 02-06-2014 CUID: [REDACTED]

SPACE COAST CREDIT UNION
 PO BOX 419001
 MELBOURNE FL 32941-9001

VC CAPITAL CORP.
 1290 MEADOW LARK AVE
 MIAMI SPRINGS, FL 33166

165
 63-7790/2631
 128

Feb. 5, 2014
 DATE

PAY TO THE ORDER OF Timothy Franklin \$ 12,000.00
Twelve Thousand and no/100 DOLLARS

SPACE COAST CREDIT UNION
 Miami Springs, FL 33166

FOR Fronted FBI late commission payment Jimmy J. DeLeon

Marked Date

Account: [redacted] Serial: 165 Amount: \$12,000.00 Sequence: 4509074 Date: 02-10-2014 CUID [redacted]

SPACE COAST CREDIT UNION
 PO BOX 419001
 MELBOURNE FL 32941-9001

Initial 4 VC units
Amount Refrain \$12,000

* Missing from ballah Declaration

Morgan Stanley

L. M. PETERSON & W. C. PETERSON CO-TRUSTEE
LOIS M. PETERSON TRUST U/A
DTD 09/08/2000
937 HUNTING LODGE DRIVE
MIAMI SPRINGS, FL 33166-5751

123

Date 11-30-2017 25-80/440

Pay to the Order of TBTI, Inc \$ 21,000

Twenty one thousand ⁰⁰/₁₀₀ Dollars

Security features are included. Details on back.

Morgan Stanley
JPMorgan Chase Bank, N.A.
Columbus, Ohio 43271
600.869.3326

Invoice Expense Analyzer

For 2011-2017 & 2018

Lois Mee Peterson

4 - Curtis	12000
3 - Jan	9000
	<u>\$21,000</u>

2

T.B.T.I. Incorporated

ATM Products and Services

TBTI Incorporated
23268 Lago Mar Circle, Suite 206
Boca Raton FL 33433
Phone 561.362.0299 Fax 561-362.8977

DATE: ovember 29th, 2011
INVOICE # 2011-0017
FOR: Virtual Concierge

Ship To:

Order From:

Miami Sun ATM Loc
Attn: Curtis Peterson
1290 Meadowlark Avenue
Miami Springs, Florida 33166

DESCRIPTION	AMOUNT
4- JCS Virtual Concierge Hospitality Systems	\$3,000.00
State Director designated for the state of Florida	
Shipping and Installation to the hotel included	\$0.00
4 VC Units and State Director Fee	\$12,000.00
TOTAL	\$12,000.00

Please Make Checks Payable To TBTI Inc.

THANK YOU FOR YOUR BUSINESS!

EXHIBIT B

T.B.T.I. Incorporated

ATM Products and Services

TBTI Incorporated
23268 Lago Mar Circle, Suite 206
Boca Raton FL 33433
Phone 561.362.0299 Fax 561-362.8977

DATE: March 28th, 2012
INVOICE # 2012-0042
FOR: Virtual Concierge

Ship To:

Order From:

Snowwhite Floor

Attn: Curtis Peterson

1290 Meadowlark Avenue

Miami Springs, Florida 33166

(786) 247-4949

curtis@snowwhite.com

DESCRIPTION	AMOUNT
1- JCS Virtual Concierge Hospitality Systems	\$3,000.00
State Director designated for the state of Florida	\$0.00
Shipping and Installation to the hotel included	\$0.00
5- VC Units contracted for placement	\$15,000.00
TOTAL DUE:	\$15,000.00

Please Make Checks Payable To TBTI Inc.

THANK YOU FOR YOUR BUSINESS!

T.B.T.I. Incorporated

ATM Products and Services

TBTI Incorporated
 23268 Lago Mar Circle, Suite 206
 Boca Raton FL 33433
 Phone 561.362.0299 Fax 561-362.8977

DATE: June 30th, 2012
INVOICE # 2012-0096
FOR: Virtual Concierge

Ship To:

Order From:

Curtis Peterson
 1290 Meadowlark Avenue
 Miami Springs, Florida 33166
 (786) 247-4949
 curtisapeterson@gmail.com

DESCRIPTION	AMOUNT
1 JCS Virtual Concierge Hospitality Systems	\$3,000.00
State Director designated for the state of _____	
Shipping and Installation to the hotel included	\$0.00
10 VC Units purchased, programmed and installed at brand name locations	
Credited to Lois Peterson - 5 VCs, Curtis Peterson- 3 VCs, Janice Pacheco- 2 VC Units	10 VC Units
10 - VC Units Ordered through Curtis Peterson	\$30,000.00
Total Amount Due	\$30,000.00

Please Make Checks Payable To TBTI Inc.

THANK YOU FOR YOUR BUSINESS!

Check Details

MIAMI SUN ATM LLC
1200 MEADOWLARK AVE
MIAMI SPRINGS, FL 33166

2892
83-7786/2431
128

11/27/12 DATE

PAY TO THE ORDER OF T.B.T.I. \$ 5,000

~~Six Thousand and no/100 & -/10~~

2 add'l VC

[Redacted]

TRN_DEBIT HCHARLES 000
Delray Beach 0858

BY THE ORDER OF
FIRST BANK N.A.
FOR DEPOSIT ONLY
FIRST BANK N.A.
DELRAY BEACH
FL 33483

*Missing from
Sallah
Declaration

Copyright © 2012 SCCU NCUA

Space Coast Credit Union is federally insured by National Credit Union Administration.

44253 9/1

T.B.T.I. Incorporated

Invoice

ATM Products and Services

TBTI Incorporated
920 Iris Dr
Delray Beach, FL 33483
Phone 561.865-5456 Fax 561.865-7159

DATE: Nov. 26th, 2012
INVOICE # 2012-0210
FOR: Virtual Concierge

Ship To:

Order From:

Curtis Peterson

1290 Meadowlark Avenue

Miami Springs, Florida 33166

(786) 247-4949

curtisapeterson@gmail.com

DESCRIPTION	AMOUNT
__1__ JCS Virtual Concierge Hospitality Systems- V015 Model	\$3,000.00
State Director designated for the state of _____	\$3,500.00
Shipping and Installation to the hotel included	\$0.00
__2__ VC Units -V015 Model x \$3000.00 =	\$6,000.00
Total Amount Due:	\$6,000.00

Please Make Checks Payable To TBTI Inc.

THANK YOU FOR YOUR BUSINESS!

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Primary Account: [REDACTED]

CURTIS ALAN PETERSON
1290 MEADOW LARK AVE
MIAMI SPRINGS FL 33166-3110

YOUR MERRILL LYNCH REPORT

April 01, 2015 - April 30, 2015

PORTFOLIO SUMMARY

	April 30	March 31	Month Change	
Net Portfolio Value	\$7,133.96	\$7,078.61	\$55.35	▲
Your assets	\$9,517.34	\$9,444.98	\$72.36	▲
Your liabilities	(\$2,383.38)	(\$2,366.37)		
Your Net Cash Flow (Inflows/Outflows)	(\$17.01)	(\$18.00)		
Securities You Transferred In/Out	-	-		
Subtotal Net Contributions	(\$17.01)	(\$18.00)		
Your Dividends/Interest Income	-	-		
Your Market Change	\$72.36	(\$68.55)		
Subtotal Investment Earnings	\$72.36	(\$68.55)		

If you have questions on your statement, call 24-Hour Assistance: (800) MERRILL (800) 637-7455

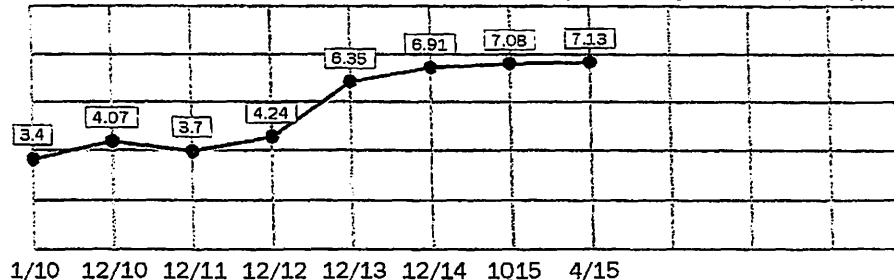
Investment Advice and Guidance: Call Your Financial Advisor

Your Financial Advisor:
WILSON GROUP
200 S BISCAYNE BLVD SUITE 4500
MIAMI FL. 33131
1-877-577-6971

Up-to-date account information can be viewed at: www.mymerrill.com where your statements are archived for three or more years.

Questions about MyMerrill? Click the "help" tab at the top of the screen once you log in.

Total Value (Net Portfolio Value plus Assets Not Held/Valued By MLPF&S, if any) in thousands, 2010-2015



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Palm Beach Atlantic University
West Palm Beach, FL

TUITION AND EXPENSES

Cost of Attendance	\$44,151	Books and Supplies	\$1,030
Tuition and Fees	\$28,520	Other Expenses	\$5,154
Room and Board	\$9,447	Payment Plans	Credit card, installment plan, external finance company

APPLYING FOR FINANCIAL AID

Financial Aid Office

E-mail	
Web Site	<u>Financial Aid Web Site</u>
Net Price Calculator URL	<u>Net Price Calculator URL</u>

Application Process

Application Deadline	
Award Notification	On a rolling basis beginning March 1
Method for Awarding Institutional Aid	Federal Methodology

Forms Required

FAFSA
 Code is 008849
 State Aid Form

Cost to File

Free

PROFILE OF 2015-16 FINANCIAL AID

Freshmen

Financial Aid Applicants	476 (87.0%) of freshmen
Found to Have Need	401 (84.2%) of applicants
Received Financial Aid	401 (100.0%) of applicants with financial need
Need Fully Met	90 (22.4%) of aid recipients

All Undergraduates

Financial Aid Applicants	2,036 (84.2%) of undergraduates
Found to Have Need	1,749 (72.4%) of applicants
Received Financial Aid	1,744 (99.7%) of applicants with financial need
Need Fully Met	296 (17.0%) of aid recipients

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17393

In the Matter of

CURTIS A. PETERSON

Respondent.


AFFIDAVIT OF RESPONDENT CURTIS A. PETERSON

BEFORE ME, the undersigned authority, personally appeared. CURTIS PETERSON, who, after being duly sworn, deposes and says:

1. I, CURTIS PETERSON, am the respondent in this action and have personal knowledge of the statements contained herein.
2. I have examined the file in connection with this matter, and I am familiar with the facts surrounding this matter.
3. I have provided financial documents in support of my position that the Sallah Declaration is deficient and not an accurate accounting of the money I invested in the VCM's.
4. As I previously informed the FBI and the Receivership counsel, I invested a total of \$447,000.00 in the VCM's and received a return on my investment payments of \$416,400.00 resulting in a net loss of \$30,600.00. The Sallah Declaration included monies unrelated to the VCMs and also mixed the commission payments with the investment payments. The FBI questionnaire is attached as Exhibit "A".

[SIGNATURE ON NEXT PAGE]

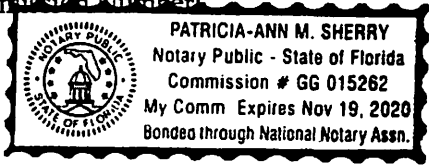
FURTHER AFFIANT SAYETH NAUGHT


Curtis Peterson

STATE OF Florida)
) SS:
COUNTY OF Deane-Haskell)

The foregoing affidavit was sworn to and acknowledged before me this 11 day of January 2017 by Curtis Peterson, who is personally known to me or has produced as identification and who did take an oath.

Printed Name PATRICIA-ANN M. SHERRY
Notary Public, State of FLORIDA
Commission Number _____



From FBI Sheet

3. Describe what you were told regarding how the investment would work.

I was told that for each machine you purchased each month, I would receive a monthly check in the amount of \$300 for each VC machine that I purchased. Each month that I purchased machines would be added to the total amount that I was paid each month. For example, If I bought 5 machines, my monthly payment would be 5 machines x \$300 = \$1500 per month. If I added 5 more machines the following month, then my check would jump to \$3,000 per month from that point on.

4. How much money in total did you invest? Please list dates, amounts, form of payment (i.e. check, wire transfer, credit/debit card) and the number of virtual concierge units involved in each transaction.

Nov. 2011 - 4 units = \$12,000	July 2012 - 2 units = \$6,000	Jan 2013 - 6 units = \$15,000	July 2013 - 5 units = \$15,000
Feb 2012 - 5 units = \$15,000	Aug 2012 - 6 units = \$18,000	Feb 2013 - 6 units = \$18,000	Aug 2013 - 10 units = \$30,000
Mar 2012 - 5 units = \$15,000	Sept 2012 - 3 units = \$9,000	Mar 2013 - 4 units = \$12,000	Sept 2013 - 5 units = \$15,000
Apr 2012 - 6 units = \$18,000	Nov 2012 - 2 units = \$6,000	Apr 2013 - 6 units = \$18,000	Oct 2013 - 15 units = \$45,000
May 2012 - 2 units = \$6,000	Dec 2012 - 2 units = \$6,000	May 2013 - 18 units = \$54,000	Nov 2013 - 15 units = \$45,000
June 2012 - 3 units = \$9,000		June 2013 - 4 units = \$12,000	Dec 2013 - 15 units = \$45,000

Checks were written for all transactions.

Total of 149 Units *\$4436*

5. Did you receive serial numbers and/or invoices for each virtual concierge unit purchased? If so, please list this information below.

Yes, I received invoices for each purchase and various emails concerning tracking and serial numbers.

6. Have you received payments from anyone after making your investment(s)? If so, please list the dates, amounts, form of payment (i.e. check, wire transfer), nature of payment, and from whom these payments were received. All Investment payments came via check from TBTI. Below are the dates and amounts.

Jan 2012 - \$1200	Jan 2013 - \$12,000	—
Feb 2012 - \$1200	Feb 2013 - \$13,800	—
Mar 2012 - \$2700	Mar 2013 - \$15,600	Total payments received 2012= \$80,400
Apr 2012 - \$4200	Apr 2013 - \$16,800	—
May 2012 - \$6000	May 2013 - \$18,000	—
June 2012 - \$6600	June 2013 - \$24,300	Total payments received 2013= \$291,000
July 2012 - \$7500	July 2013 - \$25,500	—
Aug 2012 - \$8100	Aug 2013 - \$27,000	—
Sept. 2012 - \$9900	Sept 2013 - \$30,000	Last investment payment was received
Oct. 2012 - \$10,800	Oct 2013 - \$31,500	January 2014 = \$45,000
Nov. 2012 - \$10,800	Nov 2013 - \$36,000	—
Dec. 2012 - \$11,400	Dec 2013 - \$40,500	Total payments received = \$416,400

I received referral payments from March 2013 through December 2013 as listed below.

Mar 2013 - \$33,500
 Apr 2013 - \$13,000
 May 2013 - \$42,350
 June 2013 - \$30,250
 July 2013 - \$41,000
 Aug 2013 - \$51,400

For Machine Revenue

File No. 318B-MM-3380108

EXHIBIT A