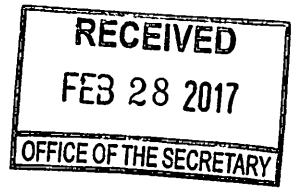
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-17550

In the Matter of TOD A. DITOMMASO, ESQ., Respondent.	**RESPONDENT TOD ANTHONY DITOMMASO'S OPPOSITION TO MOTION FOR SUMMARY DISPOSITION**

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In the Matter of TOD A. DITOMMASO, ESQ., Respondent.	**RESPONDENT TOD ANTHONY DITOMMASO'S OPPOSITION TO MOTION FOR SUMMARY DISPOSITION**

Tod A. DiTommaso submits his Opposition to the Division of Enforcement's Motion for Summary Disposition as follows:

I. SUMMARY JUDGMENT STANDARD

In ruling on a motion for summary disposition, all evidence and reasonable inferences are drawn in favor of the non-moving party. *Scott v. Harris*, 550 U.S. 372, 380 (2007). "[I]f reasonable minds might differ on the inferences arising from undisputed facts, then the court should deny summary judgment." *St. Charles Foods, Inc. v. America's Favorite Chicken Co.*, 198 F.3d 815, 819 (11th Cir. 1999) (quoting *Warrior Tombigbee Transp. Co. v. M/V Nan Fung*, 695 F.2d 1294, 1296-97 (11th Cir. 1983) (finding summary disposition "may be inappropriate where the parties agree on the basic facts, but disagree about the factual inferences that should be drawn from these facts"). Courts will view the evidence in the light most favorable to the nonmoving party to "determine whether there are genuine issues of material fact. . . ." *Oak Harbor Freight Lines, Inc. v. Sears Roebuck & Co.*, 513 F.3d 949, 954 (9th Cir.2008). A genuine

dispute exists when the evidence is such that, if the non-moving party is given the benefit of all permissible inferences and all credibility assessments, a rational fact finder could resolve all material factual issues in favor of that party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, (1986). "If a reasonable fact finder evaluating the evidence could draw more than one inference from the facts, and if that inference introduces a genuine issue of material fact, then the court should not grant summary judgment." *Allen v. Bd. of Pub. Educ.*, 495 F.3d 1306, 1315 (11th Cir. 2007).

II. SUMMARY DISPOSITION IS INAPPROPRIATE AT THIS TIME BECAUSE GENUINE ISSUES OF FACT EXISTS AS TO WHETHER RESPONDENT WAS A SUBSTANTIAL FACTOR

Not everyone in the chain of intermediaries between a seller of unlawful securities and the buyer is sufficiently involved in the process of distribution to make him or her responsible. *Owen v. Kane*, 48 S.E.C. 617, 620, (1986), *aff'd* 842 F.2d 194 (8th Cir. 1988). Liability under Sections 5 (a) and (c) will be found where the participant has a significant role in the sale of unregistered shares. *S.E.C. v. CMKM Diamonds, Inc.*, 729 F.3d 1248, 1255 (2013). What constitutes a "significant role" is a concept without precise bounds but, in general, includes "one who . . . , at the least, is a substantial motivating factor behind it." *S.E.C. v. Rodgers,* 790 F.2d 1450, 1456 (9th Cir. 1986).

To be liable, the participant must be both a **necessary participant** and **substantial factor** in the sales transaction. *CMKM Diamonds, supra.* Although Section 5 is a strict liability statute, "the 'necessary participant' and 'substantial factor' test is better suited to determine participant liability. The myriad securities schemes and participant roles within those schemes must be considered by courts rather than a scienter requirement based upon the title of a participant." *Id.*,

at 1257. Significantly, "[a] participant's title, standing alone, cannot determine liability under Section 5, because the mere fact that a defendant is labeled as an issuer, a broker, a transfer agent, a CEO, a purchaser, **or an attorney**, does not adequately explain what role the defendant actually played in the scheme at issue." *Id.*, at p. 1258 (emphasis added).

The "substantial factor" test requires more than a finding of "but for" causation. *Id.*, at p. 1255. Because Section 5 imposes strict liability for violations of its registration requirement, it is particularly important that the necessary participant and substantial factor test be carefully applied to each case so as not to subject defendants with a de minimis or insubstantial role in a securities scheme to strict liability. *Id.*, at p. 1257. Whether a party is a substantial factor in the distribution is a question of fact that requires a case-by-case analysis of the nature of the securities scheme and the party's participation in it.

Whether a participant's role is pervasive enough to bring him or her within the definition of "substantial factor" usually involves a question of fact for the jury. *Anderson v. Aurotek*, 774 F.2d 927, 930, (9th Cir. 1985) (per curiam), overruled in part on other grounds by *Pinter v. Dahl*, 486 U.S. 622, 108 S.Ct. 2063, 100 L.Ed.2d 658 (1988). Furthermore, whether a party knew or should have known is a question of fact for the jury, and when facts conflict on the extent of a party's actual knowledge, summary disposition is inappropriate. *See, In re Swine Flu Products Liab. Litig.*, 764 F.2d 637, 641. *See also, In re Homestore.com. Inc., Sec, Litg.*, 347 F. Supp. 2d 769 (CD Cal. 2004) (Issue of material fact existed as to whether defendant corporate officer knew or should have known of fraudulent deal used to create false earnings statements precluded summary judgment in federal securities fraud case).

Courts look at the knowledge/recklessness factor when determining whether one is a

substantial participant in the wrongful sale of unregistered shares. In *S.E.C. v. Spongetech Delivery Systems, Inc.*, No. 10-CV-2031 (DLI) (JMA), 2011 WL 887940, at *13 - *15 and *15 - *18, a case cited by the Division in its moving papers (p. 14), the S.E.C. sought a preliminary injunction against two attorneys, only one of which was found to be a "substantial participant," justifying an injunction. Both of the attorneys had drafted opinion letters relying on documents containing untrue statements. However, the court noted that one of the attorneys "did not have a sufficient basis to issue the opinion letter and was reckless in doing so." *Id.*, at p. 17. Thus, in determining that only one of two attorneys was a "substantial participant" in the unregistered offering, the court looked for a knowledge/reckless component.

None of the cases cited by the Division address "the effect of an attorney's reliance on the truth of the information provided by the client where there was no reason to believe that such information was inaccurate, the information did not appear to be irregular on its face, and there were no known circumstances that would make reliance unwarranted." Rather, each case sets forth additional significant conduct in addition to only drafting an attorney opinion letter. *Spongetech Delivery Systems* has been discussed above. The other cases cited by the Division are as follows:

- *S.E.C. v. CMKM Diamonds, Inc.*, 729 F.3d 1248 (2013). Attorney Dvorak drafted 440 opinion letters regarding at least 233.7 billion shares of stock, issued to 258 individuals and Dvorak received $318,843.00 for his role.
- *S.E.C. v. Greenstone Holdings, Inc.*, No. 10 Civ. 1302(MGC), 2012 WL 1038570 (S.D.N.Y. Mar. 28, 2012). In addition to preparing numerous opinion letters, Attorney Frohling wrote several letters to the Issuer's TA directing the TA to transfer shares to a

number of entities that owned a shell company that was in the process of merging with the Issuer. He also wrote several letters concurring with attorney opinion letters submitted by other attorneys for the Issuer. Further, Frohling failed to know that Rule 144 had been amended to eliminate the exemption from registration under Rule 144(k). He had based his opinions on that exemption.

- *S.E.C. v. Frohling*, 654 Fed.Appx. 523 (2016), 2016 WL 3648257. Attorney Sourlis, in her attorney opinion letters, lied about matters of which she had personal knowledge, namely that she had spoken with original noteholders, although there was no dispute that she did not speak to them.
- *S.E.C. v. Zenergy International, Inc.*, 141 F.Supp.3d 846 (N.D. Ill. 2015). Attorney Dalmy was assigned Issuer's shares which she sold using her own attorney opinion letter. She was also the transaction attorney who advised the principals of the Issuer concerning a reverse merger and then prepared its essential documents. The reverse merger was an essential fact in support of the false exemption from registration.

As explained more fully below, genuine issues of material fact exist as to whether DiTommaso was a substantial participant in an unlawful unregistered offering and sale.

III. RESPONDENT RELIED ON FACTUAL INFORMATION AND STATEMENTS, THAT ON THEIR FACE APPEARED TO BE TRUE, SUPPLIED BY THE ISSUER, THE ORIGINAL SECURITIES HOLDERS, AND ISSUER'S CORPORATE ATTORNEY

DiTommaso was introduced to Guy Jean-Pierre[1], a Florida based attorney by

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[1]DiTommaso was unaware of any issues that Mr. Jean-Pierre had with his right to practice before the OTC Markets, or concerning any S.E.C. actions against him, until on or about May 28, 2014, when DiTommaso received a Document Preservation Letter from Kim Greer, Esq., of the Division (Ex. 38 at 60:12 - 61:13 - DiTommaso Dec., para. 3).

DiTommaso's good friend, licensed broker, David C. Adams (Ex. 38 at 59:13 - 60:11 - DiTommaso Dec., para. 2). Mr. Jean-Pierre explained that he was a corporate/in-house lawyer for various entities and that he would like DiTommaso, as outside counsel, to prepare attorney opinion letters concerning those companies (DiTommaso Dec., para. 4). Mr. Jean-Pierre explained that he thought it best to have outside counsel rather than corporate/in-house counsel to prepare the attorney opinion letters for those companies that he represented as corporate/in-house counsel (Ex. 38 at 62:21 - 63:8). DiTommaso agreed to Mr. Jean-Pierre's request, that any attorney opinion letters he issued, would be at a discounted price, in exchange for Mr. Jean-Pierre ghostwriting the letters[2] (DiTommaso Dec., para. 5).

Sometime in July 2011, Mr. Jean-Pierre contacted DiTommaso about issuing attorney opinion letters in relationship to Fusion Pharm, Inc. ("FSPM") (DiTommaso Dec., para. 6). As part of learning about FSPM, a meeting was arranged with FSPM's president, Scott Dittman. The Division's comments are somewhat of a mischaracterization about how that meeting came about; DiTommaso was only coordinating the in-person meeting with Mr. Jean-Pierre, including phone calls (DiTommaso Dec., para. 6). DiTommaso had no direct contact with William Sears (DiTommaso Dec., para. 6). At that time, DiTommaso did not know who William Sears was nor what his relationship was to FSPM (DiTommaso Dec., para. 6). After that meeting had concluded, there was no reason for DiTommaso to ever review the subject e-mails again and he never did (DiTommaso Dec., para. 6).

Thereafter, from July 2012 - August 2013, DiTommaso prepared some attorney opinion

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[2]It is a common practice in the legal field for one attorney to ghostwrite letters, briefs, motions, etc., for another attorney. This does not mean that due-diligence in investigating the supporting facts and law was not done (DiTommaso Dec., para. 5).

letters regarding the safe harbor of Rule 144 for non-affiliate shareholders on behalf of FSPM (DiTommaso Dec., para. 7). In issuing such letters, it is common practice for a securities attorney rely on factual representations, in the form of supporting documentation, received from the issuer and the original securities holder, including statements that the original securities holder and other parties to the transaction are affiliates of the issuer. The supporting documentation would include such items as: Stock Certificates, Corporate Resolutions, Debt purchase agreements, Stock purchase agreements, Conversion agreements, Promissory notes, Conversion notices, and Non-Affiliate letters signed by the Issuer and the transferee/original securities holder (DiTommaso Dec., para. 8).

This was the case for DiTommaso, who did not have personal knowledge of the particular information pertaining to each transaction, and had to rely upon factual statements provided by FSPM, the original securities holders, and FSPM's corporate counsel/corporate secretary (DiTommaso Dec., para. 9). For each attorney opinion letter, Mr. Jean-Pierre would ghostwrite a draft of the letter, which he would forward, along with all required supporting documentation, to DiTommaso (DiTommaso Dec., para. 10). Each separate attorney opinion letter was prepared as a separate transaction separated by significant period of time and was based on the factual representations received at the time of the request (DiTommaso Dec., para. 11). Each separate transaction contained certificates of the officers of FSPM, and the original securities holders that explicitly stated warranties and representations as to the non-affiliate status of the concerned parties (DiTommaso Dec., para. 11).

It was DiTommaso's practice for drafting any attorney opinion letter, upon receipt of supporting documentation, to verify the predicate facts for establishing the Rule 144 safe harbor,

by taking various steps, including, but not limited to:

- Looked at the length of time the securities were held;
- Looked at how and under what circumstances the securities were obtained;
- Examined the basic underlying agreements or operative documents for the securities transaction in question;
- Looked at whether the security holder had made any payment to any other person in connection with the proposed sale of the securities;
- Checked to see if OTC filings were current, complete and contained current information available to the public about issuer, including information concerning its shell status; and,
- Checked the affiliate status of the parties (normally relying on the original securities holder and the issuer's affirmative statements that the parties involved were not affiliates) (DiTommaso Dec., para. 12).

With regard to FSPM, at the time DiTommaso prepared each separate attorney opinion letter, he was satisfied that he had reviewed sufficient facts to support each of the legal opinions that were expressed in that attorney opinion letter (DiTommaso Dec., para. 13). DiTommaso did not see anything unusual or remarkable that would have led one to believe that the factual representations were false or that any of the subject shareholders and/or debt holders were affiliates (DiTommaso Dec., para. 13). The following attorney opinion letters are the subject of the Summary Disposition Motion:

- July 23, 2012 (Ex.5) - Todd Abbott (original securities holder). The following documents indicate non-affiliate status:
    - Share Purchase Agreement (Ex.4);

- Stock Certificate 7385 (Ex.A - DiTommaso Dec.);
- Original securities holder Statement re: Non-Affiliate Status of both Todd Abbott (original securities holder) and Microcap (transferee) (Ex.B - DiTommaso Dec.);
- FSPM Officer Certificate re: Non-Affiliate Status of both Todd Abbott (original securities holder) and Microcap (transferee) (Ex.C - DiTommaso Dec.).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status (DiTommaso Dec., para. 14).

- January 4, 2013 (Ex.10) - Bayside Realty Holdings, LLC (original securities holder). The following documents indicate non-affiliate status:
  - FSPM Officer Certificate re: Non-Affiliate Status of Bayside Realty (original securities holder) (Ex.D - DiTommaso Dec.);
  - Original securities holder Statement re: Non-Affiliate Status of Bayside Realty (original securities holder) (Ex.53) (Ex.E - DiTommaso Dec.).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status (DiTommaso Dec., para. 14).

- March 13, 2013 - (1) Black Arch (Ex.18); (2) SGI Group (Ex.19); (3) Starcity (Ex.20); (4) Vera Group (Ex.21) ; and (5) Mauriello (Ex.22) [Five opinion letters]. The original securities holder was Bayside. The following documents indicate non-affiliate status:
  - Securities Transfer Agreement (Bayside and Black Arch) (Ex.13, pp. 6-7, p. 9);
  - Securities Transfer Agreement (Bayside and SGI Group) (Ex.14, pp. 6-7, p. 9);
  - Securities Transfer Agreement (Bayside and Starcity) (Ex.15, pp. 6-7, p. 9);
  - Securities Transfer Agreement (Bayside and Vera Group) (Ex.16, pp. 6-7, p. 9);

- Securities Transfer Agreement (Bayside and Mauriello) (Ex.17, pp. 6-7, p. 9);
- Statement re: Non-Affiliate Status of Vera Group (Ex.F - DiTommaso Dec.);
- Statement re: Non-Affiliate Status of Starcity (Ex.G - DiTommaso Dec.);
- Statement re: Non-Affiliate Status of Mauriello (Ex.H - DiTommaso Dec.);
- Statement re: Non-Affiliate Status of SGI Group (Ex.I - DiTommaso Dec.);
- Statement re: Non-Affiliate Status of Black Arch (Ex.J - DiTommaso Dec.);
- FSPM Officer Certificate re: Non-Affiliate Status of Bayside Realty (original securities holder) and each of the five transferees (Ex.K - DiTommaso Dec.).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status (DiTommaso Dec., para. 14).

- March 31, 2013 - Meadpoint Venture Partners, LLC (original securities holder) (Ex.25). The following documents indicate non-affiliate status:
  - FSPM Officer Certificate re: Non-Affiliate Status of Meadpoint Venture (original securities holder) (Ex.L - DiTommaso Dec.).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status (DiTommaso Dec., para. 14).

- August 13, 2013 - Meadpoint Venture Partners, LLC (original securities holder) (Ex.29). DiTommaso did not deny preparing this letter. Rather, he could not locate any documents, including documents that would have been transferred from FSPM pertaining to this transaction, thus can neither admit nor deny preparing it. If DiTommaso did prepare this letter, which from the evidence presented by the Division, appears likely, then he would have based the opinion on the same factual documentation re: non-affiliate

status as the other Meadpoint Venture letters (DiTommaso Dec., para. 14).

- August 26, 2013 - Richard Scholz, Sharryn Thayden, and Myron Thayden (Ex.35). Meadpoint Venture Partners, LLC (original securities holder). The following documents indicate non-affiliate status:
  - Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.32);
  - Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.33);
  - Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.34);
  - FSPM Officer Certificate re: Non-Affiliate Status of Meadpoint Venture (original securities holder) (Ex.M - DiTommaso Dec.).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status (DiTommaso Dec., para. 14).

DiTommaso complied with his obligation to conduct a inquiry into the factual basis supporting an exemption when preparing the attorney opinion letters. DiTommaso believed the factual statements made by FSPM, its corporate counsel, and the other parties to each separate transaction. DiTommaso found no reason not to trust these persons and entities as well as the information contained in the supporting documentation. The information does not appear to be irregular on its face, and there were no known circumstances that would make reliance unwarranted. DiTommaso did not have actual knowledge or actual notice that any documents were not accurate and complete. DiTommaso had no reason to think that any of the information and representations were inaccurate. (DiTommaso Dec., para. 15).

DiTommaso's initial meeting with FSPM's director, Scott Dittman, wherein they fully discussed his company and its business, as well as his prior working relationship with FSPM's

corporate counsel, supports that DiTommaso's trust of the client's probity was reasonable. *See, Schatz v. Rosenberg*, 943 F.2d 485, 495 (4th Cir.1991), in which the court found in the context of a Section 10(b) claim that "[l]awyers do not vouch for the probity of their clients when they draft documents reflecting their clients' promises, statements, or warranties." See also:

- *Escott v. BarChris Const. Corp.*, 283 F.Supp. 643, 683 (SD NY 1968), in the context of a the validity of a registration statement, all persons (other than the issuer) may defend on the ground that they reasonably believed the registration statement to be true and complete. *See also, Monroe v. Hughes* (9th Cir. 1994) 31 F3d 772, 774-776, due diligence performed by accountants adequate as matter of law;
- *Wafra Leasing Corp. 1999-A-1 v. Prime Capital Corp*, 2004 WL 1977572 (N.D. Ill. Aug. 31, 2004), summary judgment granted to lawyer on plaintiff's assertion of Rule 10b-5 liability for allegedly false statement in opinion letter based on the fact that no information had come to counsel's attention that would have given counsel actual knowledge or actual notice that any documents, including a private placement memorandum, were not accurate and complete;
- *Fortress Credit Corp. v. Dechert LLP*, 934 N.Y.S.2d 119 (N.Y. App. Div. 2011). No liability on part of the law firm because the opinion letter was a typical third-party opinion that made certain assumptions, and relied upon facially proper certificates, etc. The New York appellate court ruled that the law firm had not undertaken an obligation beyond issuing a legal opinion based upon facts supplied by its client. The law firm had no duty to investigate the factual underpinnings of the transactions.
- Provided that there is a sufficient level of trust in the client's probity, a lawyer may

properly assume that the facts as related to him by the client are accurate, unless the alleged facts are suspect or incomplete in a material respect, are in any way inherently inconsistent, or are on the basis of other known facts open to question. In rendering an opinion concerning the sale of unregistered securities, a lawyer should inquire into relevant facts, and although counsel "should not accept as true that which he should not reasonably believe to be true, he does not have the responsibility to 'audit' the affairs of [the] client or to assume, without reasonable cause, that [the] client's statement of the facts cannot be relied upon." ABA Comm. on Ethics and Professional Responsibility, Formal Op. 335 (1974), 60 A.B.A.J. 488, 490 (1974).

IV. ADDITIONAL UNDISPUTED FACTS THAT SUPPORT DENYING SUMMARY DISPOSITION

- Each of the purported red flags come from documents that were not part of any of the subject transactions and/or were irrelevant to the subject transactions (DiTommaso Dec., para. 16):
    - FSPM stock certificates signed by "Sandra L. Sears" as President of FSPM (Exs. 48 - 51). These stock certificates and "[t]he attorney opinion letters that DiTommaso issued relating to these shareholders are not at issue here. . . ." Motion, p. 10, fn 8. None of these stock certificates were part of any of the subject transactions (DiTommaso Dec., para. 16). Furthermore, many people have the same last name without there being any actual family relationship.

- E-mail from FSPM's accountant, copying W. Sears using W.Sears' FSPM e-mail (Ex.46). The quote offered by the Division misinterprets what DiTommaso meant. DiTommaso paid attention to the subject matter of the e-mail. Rather, DiTommaso meant that he did not pay attention to the cc list of who also received the e-mail (DiTommaso Dec., para. 16). This e-mail was not part of or relevant to any of the subject transactions (DiTommaso Dec., para. 16).
- E-mail (Ex.47) concerning a possible attorney opinion letter and copying William Sears was not part of or relevant to any of the subject transactions (DiTommaso Dec., para. 16).
- E-mail (Ex.54) containing an e-mail chain with an exchange between William Sears and the Transfer Agent that was not part of or relevant to the subject transactions (DiTommaso Dec., para. 16). There was nothing in the supporting documents pertaining to the March 13, 2013 attorney opinion letters (Exs. 18, 19, 20, 21 and 22) that had any connection to William Sears or raised any concern as to why he was part of the e-mail chain (DiTommaso Dec., para. 16).

- William Sears, at no time during the period relevant to this Motion, made any mention "in any of FusionPharm's financial statements, notes, or quarterly and annual reports, that [William Sears] or any of the entities through which he

conducted business was an affiliate of, or related party to FusionPharm." (Ex.3 - p. 17).

- William Sears and Scott Dittman backdated the subject (Bayside) promissory notes so that: "(1) all debt obligations reflected in the backdated dated noted were intended to be converted at the time that FusionPharm incurred the debts; (2) the debt obligations always had been convertible; (3) the backdated notes constituted contemporaneously created written evidence of the debt obligations reflected therein; and (4) consequently that the holding period required by the federal securities laws had been satisfied." (Ex.3 - p. 26).
- William Sears and Scott Dittman did the same with Meadpoint promissory notes for the same purpose of wrongly inform that "the holding period had been satisfied as to all debt obligations reflected in the Note." (Ex.3 - p. 28).
- "FusionPharm failed to identify its transactions with Meadpoint or Sears as: (a) material transactions with any director or executive officer . . . (b) transactions by any person beneficially owning shares carrying more than 5% of voting rights . . . (c) transactions with any member of the immediate family (including in-laws) of any director or executive officer. . . ." (Ex.3 - p. 33).
- DiTommaso had absolutely no stake whatsoever in the success or failure of FSPM (DiTommaso Dec., para. 17).
- Other than issuing the attorney opinion letters, DiTommaso did not have any role: in drafting the supporting documents; in the business operations of FSPM; in devising the corporate financing scheme; in finding investors and buyers; or in

structuring any sales (DiTommaso Dec., para. 18).

V. CONCLUSION

The knowledge/recklessness factor is weighed when determining whether one is a substantial participant in the wrongful sale of unregistered shares. Although Section 5 is a strict liability statute, the determination of whether a participant's role is pervasive enough to bring him or her within the definition of "substantial factor" involves a question of fact for the jury, which makes summary disposition inappropriate.

There is no doubt that FSPM, its corporate counsel, Mr. Jean-Pierre, and William Sears knowingly made false representations regarding non-affiliate status to DiTommaso to induce him to issue opinion letters that stated the restrictive legend could be removed. However, at the time DiTommaso prepared each separate opinion letter, he did not see anything unusual or remarkable that would led one to believe that the statements were false or that any of the subject shareholders and/or debt holders were affiliates. In fact, a current review of each separate transaction by itself, without the benefit of hindsight, still does not raise any red-flags[3].

If the representations had been true, then each attorney opinion letter would have been valid. Reliance on the clients representation must have some weight. At a minimum, it raises a genuine issues of material fact as to whether DiTommaso role is pervasive enough to bring him within the definition of "substantial factor."

Respondent Tod A. DiTommaso respectfully requests that the Motion for Summary Disposition be denied on the basis that either: (1) the undisputed facts do not establish that

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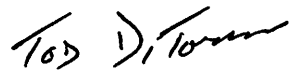
[3]Had DiTommaso known, or had a reasonable belief that he had been provided with false information, or that any security holder was in fact an affiliate, he would have not issued the attorney opinion letters (DiTommaso Dec., para. 19).

DiTommaso was a substantial participant in the FSPM distribution as a matter of law; or (2) after drawing all possible inferences in favor of DiTommaso (The Division is not entitled on a summary disposition to have any inferences made in its favor), the Court finds that there remain genuine issues of material fact as to whether Respondent was a "necessary participant" or a "substantial factor" in the offering or selling of unregistered shares.

Dated: February 21, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Opposition was served on this 22nd day of February 2017, as follows:

Securities and Exchange Commission
Brent Fields, Secretary
100 F Street, N.E.
Mail Stop 1090
Washington, D.C. 20549
(By US Mail - Original and three copies)

Hon. Carol Fox Foelak
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Stephen C. McKenna, Esq.
Kim Greer, Esq.
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Denver Regional Office
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1961 Stout Street, Ste. 1700
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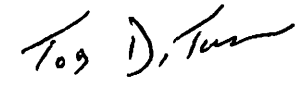
Respectfully submitted,



Tod Anthony DiTommaso

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17550

In the Matter of TOD A. DITOMMASO, ESQ., Respondent.	**DECLARATION OF RESPONDENT TOD ANTHONY DITOMMASO IN OPPOSITION TO MOTION FOR SUMMARY DISPOSITION**

I, Tod Anthony DiTommaso, under penalty of perjury, I make the following declaration:

1. I am the Respondent in this proceeding. The following is known to me of my own personal knowledge, and if called upon as a witness, I could and would competently so testify. I make this declaration in support of the Opposition to the Division of Enforcement's Motion for Summary Disposition.

2. I was introduced to Guy Jean-Pierre, a Florida based attorney by my good friend, licensed broker, David C. Adams.

3. I was unaware of any issues that Mr. Jean-Pierre had with his right to practice before the OTC Markets, or concerning any S.E.C. actions against him, until on or about May 28, 2014, when I received a Document Preservation Letter from Kim Greer, Esq., of the Division.

4. Mr. Jean-Pierre explained that he was a corporate/in-house lawyer for various entities and that he would like me, as outside counsel, to prepare attorney opinion letters concerning those companies. Mr. Jean-Pierre explained that he thought it best to have outside counsel rather

than corporate/in-house counsel to prepare the attorney opinion letters for those companies that he represented as corporate/in-house counsel.

5. I agreed to Mr. Jean-Pierre's request, that any attorney opinion letters he issued, would be at a discounted price, in exchange for Mr. Jean-Pierre ghostwriting the letters. It is a common practice in the legal field for one attorney to ghostwrite letters, briefs, motions, etc., for another attorney. This does not mean that due-diligence in investigating the supporting facts and law was not done.

6. Sometime in July 2011, Mr. Jean-Pierre contacted me about issuing attorney opinion letters in relationship to Fusion Pharm, Inc. ("FSPM"). As part of learning about FSPM, a meeting was arranged with FSPM's president, Scott Dittman. The Division's comments are somewhat of a mischaracterization about how that meeting came about; I was only coordinating the in-person meeting with Mr. Jean-Pierre, including phone calls. I had no direct contact with William Sears. At that time, I did not know who William Sears was nor what his relationship was to FSPM. After that meeting had concluded, there was no reason for me to ever review the subject e-mails again and I never did until the S.E.C.'s involvement in this matter.

7. Thereafter, from July 2012 - August 2013, I prepared some attorney opinion letters regarding the safe harbor of Rule 144 for non-affiliate shareholders on behalf of FSPM.

8. In issuing attorney opinion letters, it is common practice for a securities attorney rely on factual representations, in the form of supporting documentation, received from the issuer and the original securities holder, including statements that the original securities holder and other parties to the transaction are affiliates of the issuer. The supporting documentation would include such items as: Stock Certificates, Corporate Resolutions, Debt purchase agreements, Stock purchase

agreements, Conversion agreements, Promissory notes, Conversion notices, and Non-Affiliate letters signed by the issuer and the transferee/original securities holder.

9. This is what occurred in this matter. Because I did not have personal knowledge of the particular information pertaining to each transaction, I had to rely upon factual statements provided by FSPM, the original securities holders, FSPM's corporate counsel/corporate secretary, and all other participants in the transaction.

10. For each attorney opinion letter, Mr. Jean-Pierre would ghostwrite a draft of the letter, which he would forward, along with all required supporting documentation, to me.

11. Each separate attorney opinion letter was prepared as a separate transaction separated by significant period of time and was based on the factual representations received at the time of the request. Each separate transaction contained certificates of the officers of FSPM, and the original securities holders that explicitly stated warranties and representations as to the non-affiliate status of the concerned parties.

12. It was my practice for drafting any attorney opinion letter, upon receipt of supporting documentation, to verify the predicate facts for establishing the Rule 144 safe harbor, by taking various steps, including, but not limited to:

a. Looked at the length of time the securities were held;

b. Looked at how and under what circumstances the securities were obtained;

c. Examined the basic underlying agreements or operative documents for the securities transaction in question;

d. Looked at whether the security holder had made any payment to any other person in connection with the proposed sale of the securities;

e. Checked to see if OTC filings were current, complete and contained current information available to the public about issuer, including information concerning its shell status; and,

f. Checked the affiliate status of the parties (normally relying on the original securities holder and the issuer's affirmative statements that the parties involved were not affiliates).

13. With regard to FSPM, at the time I prepared each separate attorney opinion letter, I was satisfied that I had reviewed sufficient facts to support each of the legal opinions that were expressed in that attorney opinion letter. I did not see anything unusual or remarkable that would have led one to believe that the factual representations were false or that any of the subject shareholders and/or debt holders were affiliates.

14. The following attorney opinion letters are the subject of the Summary Disposition Motion:

a. July 23, 2012 (Ex.5) - Todd Abbott (original securities holder). The following documents indicate non-affiliate status:

i. Share Purchase Agreement (Ex.4);

ii. Stock Certificate 7385 (Attached as Ex.A, is a true and correct copy of this document);

iii. Original securities holder Statement re: Non-Affiliate Status of both Todd Abbott (original securities holder) and Microcap (transferee) (Attached as Ex.B, is a true and correct copy of this document);

iv. FSPM Officer Certificate re: Non-Affiliate Status of both Todd Abbott

(original securities holder) and Microcap (transferee) (Attached as Ex.C, is a true and correct copy of this document).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status.

b. January 4, 2013 (Ex.10) - Bayside Realty Holdings, LLC (original securities holder). The following documents indicate non-affiliate status:

i. FSPM Officer Certificate re: Non-Affiliate Status of Bayside Realty (original securities holder) (Attached as Ex.D, is a true and correct copy of this document);

ii. Original securities holder Statement re: Non-Affiliate Status of Bayside Realty (original securities holder) (Ex.53) (Attached as Ex.E, is a true and correct copy of this document).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status.

c. March 13, 2013 - (1) Black Arch (Ex.18); (2) SGI Group (Ex.19); (3) Starcity (Ex.20); (4) Vera Group (Ex.21) ; and (5) Mauriello (Ex.22) [Five opinion letters]. The original securities holder was Bayside. The following documents indicate non-affiliate status:

i. Securities Transfer Agreement (Bayside and Black Arch) (Ex.13, pp. 6-7, p. 9);

ii. Securities Transfer Agreement (Bayside and SGI Group) (Ex.14, pp. 6-7, p. 9);

iii. Securities Transfer Agreement (Bayside and Starcity) (Ex.15, pp. 6-7, p. 9);

iv. Securities Transfer Agreement (Bayside and Vera Group) (Ex.16, pp. 6-7, p. 9);

v. Securities Transfer Agreement (Bayside and Mauriello) (Ex.17, pp. 6-7, p. 9);

vi. Statement re: Non-Affiliate Status of Vera Group (Attached as Ex.F, is a true and correct copy of this document);

vii. Statement re: Non-Affiliate Status of Starcity (Attached as Ex.G, is a true and correct copy of this document);

viii. Statement re: Non-Affiliate Status of Mauriello (Attached as Ex.H, is a true and correct copy of this document);

ix. Statement re: Non-Affiliate Status of SGI Group (Attached as Ex.I, is a true and correct copy of this document);

x. Statement re: Non-Affiliate Status of Black Arch (Attached as Ex.J, is a true and correct copy of this document Ex.J);

xi. FSPM Officer Certificate re: Non-Affiliate Status of Bayside Realty (original securities holder) and each of the five transferees (Attached as Ex.K, is a true and correct copy of this document).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status.

d. March 31, 2013 - Meadpoint Venture Partners, LLC (original securities holder)

(Ex.25). The following documents indicate non-affiliate status:

i. FSPM Officer Certificate re: Non-Affiliate Status of Meadpoint Venture (original securities holder) (Attached as Ex.L, is a true and correct copy of this document).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status.

e. August 13, 2013 - Meadpoint Venture Partners, LLC (original securities holder) (Ex.29). I did not deny preparing this letter. Rather, I could not locate any documents, including documents that would have been transferred from FSPM pertaining to this transaction, thus I can neither admit nor deny preparing it. If I did prepare this letter, which from the evidence presented by the Division, appears likely, then I would have based the opinion on the same factual documentation re: non-affiliate status as used in the other Meadpoint Venture letters.

f. August 26, 2013 - Richard Scholz, Sharryn Thayden, and Myron Thayden (Ex.35). Meadpoint Venture Partners, LLC (original securities holder). The following documents indicate non-affiliate status:

i. Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.32);

ii. Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.33);

iii. Statement re: Non-Affiliate Status of Meadpoint Venture (Ex.34);

iv. FSPM Officer Certificate re: Non-Affiliate Status of Meadpoint Venture (original securities holder) (Attached as Ex.M, is a true and correct copy of this document).

Nothing in the documents received for this **separate transaction** (including the transmittal e-mail) indicate any red-flags re: non-affiliate status.

15. I complied with my obligation to conduct a inquiry into the factual basis supporting an exemption when preparing the attorney opinion letters. I believed the factual statements made by FSPM, its corporate counsel, and the other parties to each separate transaction. I found no reason not to trust these persons and entities as well as the information contained in the supporting documentation. The information does not appear to be irregular on its face, and there were no known circumstances that would make reliance unwarranted. I did not have actual knowledge or actual notice that any documents were not accurate and complete. I had no reason to think that any of the information and representations were inaccurate.

16. Each of the purported red flags come from documents that were not part of any of the subject transactions and/or were irrelevant to the subject transactions:

a. FSPM stock certificates signed by "Sandra L. Sears" as President of FSPM (Exs. 48 - 51). These stock certificates and "[t]he attorney opinion letters that I issued relating to these shareholders are not at issue here. . . ." Motion, p. 10, fn 8. None of these stock certificates were part of any of the subject transactions. Furthermore, many people have the same last name without there being any actual family relationship.

b. E-mail from FSPM's accountant, copying W. Sears using W.Sears' FSPM e-mail (Ex.46). The quote offered by the Division misinterprets what I meant. I paid attention to the subject matter of the e-mail. Rather, I meant that I did not pay attention to the cc list of who also received the e-mail. This e-mail was not part of

or relevant to any of the subject transactions.

c. E-mail (Ex.47) concerning a possible attorney opinion letter and copying William Sears was not part of or relevant to any of the subject transactions.

d. E-mail (Ex.54) containing an e-mail chain with an exchange between William Sears and the Transfer Agent that was not part of or relevant to the subject transactions. There was nothing in the supporting documents pertaining to the March 13, 2013 attorney opinion letters (Exs. 18, 19, 20, 21 and 22) that had any connection to William Sears or raised any concern as to why he was part of the e-mail chain.

17. I had absolutely no stake whatsoever in the success or failure of FSPM.

18. Other than issuing the attorney opinion letters, I did not have any role: in drafting the supporting documents; in the business operations of FSPM; in devising the corporate financing scheme; in finding investors and buyers; or in structuring any sales.

19. Had I known, or had a reasonable belief that I had been provided with false information, or that any security holder was in fact an affiliate, I would have not issued the attorney opinion letters.

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

Dated: February 21, 2017

Respectfully submitted,

Tod D. Tommaso

Tod Anthony DiTommaso
San Francisco, California

CS2-2385

ABBOT 129056

Ex. 4

FUSION PHARM, INC.
(FKA: BABY BEE BRIGHT CORP)

BABY BE ATION

NUMBER 7385

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA
450,000,000 SHARES AUTHORIZED

SHARES ***40,000***

CUSIP # 36113H100

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TOWARD RESALE AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL WHICH IS SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT SUCH REGISTRATIONS ARE NOT REQUIRED.

SEE REVERSE SIDE
FOR CERTAIN DEFINITIONS

THIS CERTIFIES that

TODD ABBOTT

is the owner of

*** Forty Thousand ***

FULLY PAID NON-ASSESSABLE SHARES OF THE COMMON STOCK, $.0001 PAR VALUE OF

BABY BEE BRIGHT CORPORATION

Transferable on the books of the Corporation by the holder hereof in person, or by duly authorized attorney upon surrender of this Certificate properly endorsed.

This certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar, Witness the facsimile seal of the Corporation and the facsimile signature of its duly authorized officers.

Dated May 16, 2011

Beele C. Dahlman
SECRETARY

BABY BEE BRIGHT CORPORATION NEVADA

Frederick A Dahlman Jr.
PRESIDENT

COUNTERSIGNED:
PACIFIC STOCK TRANSFER COMPANY
4045 South Spencer Street, #403
Las Vegas NV 89119

BY: _____
Authorized Signature

NOT VALID UNLESS COUNTERSIGNED BY TRANSFER AGENT

JULY 18, 2012

Dear Sirs:

Reference is made to the request of the undersigned (the "Shareholder") to remove the legend from that certain stock certificate Number 7385, dated May 16, 2011 (the "Certificate"), representing 40,000 shares of Common Stock (the "Shares") of Fusion Pharm, Inc. (the "Company"), formerly known as Baby Bee Bright Corporation, pursuant to the exemption from registration afforded by Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act"). This is also to request that the replacement certificate representing the Shares be issued without the restrictive legend in the name of Microcap Management (the "Transferee") in accordance with that certain letter, dated September 8, 2011, addressed to the transfer agent of the Company. In the specific instance, the Shareholder has requested a legal opinion (the "Requested Opinion") as to the availability of the exemption provided by Rule 144 of the Act under the specific circumstances attendant to the Shares.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that neither the undersigned, nor, to the best of Shareholder's knowledge, the Transferee, is now or, at any time during the preceding three months, has been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you and any of all your affiliates, agents, consultants and employees involved in the preparation of the Requested Opinion to rely on the herein representations for the purpose of rendering the Requested Opinion.

Very truly yours,

Todd Abbott, an individual

Ex B

FUSION PHARM, INC.
OFFICER'S CERTIFICATE

July 18, 2012

The undersigned, being the president of **FUSION PHARM, INC.** (the "Company"), formerly known as Baby Bee Bright Corporation, on behalf of the Company and with the aim of securing a legal opinion ("Opinion") for the Company regarding, inter alia, its status as not being a "shell company" hereby assert that, to the best of our knowledge, the Company has had continuing operations from the original date of incorporation to the present and that it is not now and has never been a "shell company" within the definition of the term "shell company" as promulgated by the Securities and Exchange Commission. We note also that the Opinion pertains to the tradability of 40,000 shares (the "Shares") of the common stock of the Company originally issued to the Shareholder (as hereinafter defined) pursuant to that certain debt settlement agreement, dated May 3, 2011 (the "Record Date"), by and between the Shareholder and the Company.

The undersigned hereby further warrants and represents as follows:

1) That in my position with the Company I have the requisite knowledge of the facts presented in this certification, and the authority to make the representations without further action or approval;

2) That the shareholder, Todd Abbott (individually and collectively the "Shareholder"), is not, and, as of the Transfer Date, was not, an "Affiliate" of the Company. Under 17 CFR 230.144(a)(1) an Affiliate of an issuer is "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer;

3) That the Shareholder, by letter dated September 8, 2011 (the "Transfer Date") addressed to the transfer agent, transferred his interest in the Shares to Microcap Management (the "Transferee") effective the Transfer Date;

4) That neither the Shareholder nor the Transferee is now, nor has ever been such at any time during the preceding 90 days, an Affiliate of the Company. Moreover, both the Shareholder and the Transferee have been outsiders to the Company and its management, and neither has any other method of control over the Company;

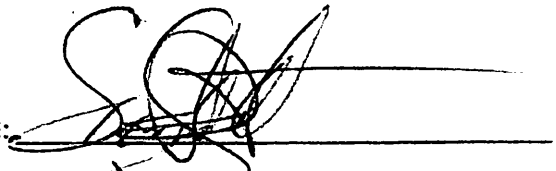
5) That furthermore, the Shareholder was not as of the Transfer Date, nor was such at any time during the 90 days preceding the Transfer Date, an Affiliate of the Company.

6) That the certificate representing the Shares was properly issued by the Company pursuant to that certain debt settlement agreement, dated March 31, 2011, by and between the Shareholder and the Company;

7) That the Company is not a "Shell" company as that term is defined in Securities Act Rule 405 (i.e. a company that has: (1) no or nominal operations; and EITHER (2) (i) No or nominal assets; (ii) assets consisting solely of cash and cash equivalents; or (iii) assets consisting of any amount of cash and cash equivalents and nominal other assets.);

8) That to the best of the Company's information and belief, after due investigation, the Company has never been a Shell company in its corporate history.

We further understand and acknowledge that it is impossible for an independent third party to make an independent inquiry of the Company's ongoing status as certified in this certificate. As such, we authorize the attorneys preparing the requested opinion and each of their members, employees, agents and affiliates (the "Legal Personnel") to rely exclusively on the foregoing representation for the purpose of rendering the Opinion. Further, on behalf of the Company and its officers and directors, we hereby agree to indemnify and hold the Legal Personnel harmless from any claim, loss or liability resulting from any action or threatened action arising from reliance on the herein representation.

Signed: 

Name:

Title: President

FUSION PHARM, INC.
Officer's Certificate

December 7, 2012

The undersigned, being the president and secretary of **FUSION PHARM, INC.** (the "Company"), on behalf of the Company and with the aim of securing a legal opinion ("Opinion") for the Company regarding, *inter alia*, its status as not being a "shell company" hereby assert that, to the best of our knowledge, the Company has had continuing operations from the original date of incorporation to the present and that it is not now and has never been a "shell company" within the definition of the term "shell company" as promulgated by the Securities and Exchange Commission. We note also that the Opinion pertains to the conversion of certain indebtedness of the Company held by Bayside Realty Holdings, LLC (the "Shareholder") into 140,000 shares (the "Shares") of the common stock of the Company to be issued in the name of the Shareholder free of the restrictive legend. We further note that the referenced indebtedness was originally issued in favor of the Shareholder pursuant to that certain convertible promissory note (the "Promissory Note"), dated May 2, 2011 (the "Record Date"), by and between the Shareholder and the Company.

The undersigned hereby further warrants and represents as follows:

1) That in my position with the Company I have the requisite knowledge of the facts presented in this Certification, and the authority to make the representations without further action or approval;

2) That the Shareholder is not now, nor has ever been such at any time during the preceding 90 days, an "Affiliate" of the Company. Under 17 CFR 230.144(a)(1) an Affiliate of an issuer is "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer. Moreover, the Shareholder has, during the referenced 90 days to the present, been an outsider to the Company and its management, and has no other method of control over the Company;

3) That the Note, or portion thereof, dated May 2, 2011 in $275,000.00 principal amount that is being converted by the Shareholder is a valid obligation of the Company as of the date of the Conversion Notice and as of the date hereof, the Note has not otherwise been fully paid, and the Company certifies that the conversion rates outlined in the Conversion Notice from the Shareholder is true and correct;

4) That the Company is not a "Shell" company as that term is defined in Securities Act Rule 405 (i.e. a company that has: (1) no or nominal operations; and EITHER (2) (i) No or nominal assets; (ii) assets consisting solely of cash and cash equivalents; or (iii) assets consisting of any amount of cash and cash equivalents and nominal other assets);

5) That to the best of the Company's information and belief, after due investigation, the Company has always had operations and has never been a Shell company in its corporate history.

We further understand and acknowledge that it is impossible for an independent third party to make an independent inquiry of the Company's ongoing status as certified in this certificate. As such, we authorize the attorneys preparing the requested opinion and each of their members, employees, agents and affiliates (the "Legal Personnel") to rely exclusively on the foregoing representation for the purpose of rendering the Opinion. Further, on behalf of the Company and its officers and directors, we hereby agree to indemnify and hold the Legal

Personnel harmless from any claim, loss or liability resulting from any action or threatened action arising from reliance on the herein representation.

Signed: _____

Name: Scott Dittman

Title: President

Ex D2

DECEMBER 6, 2012

Dear Sirs:

Reference is made to the request of the undersigned to convert $1,400.00 of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 140,000 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. In connection therewith, the Original Holder has requested that you opine as to the availability of the exemption provided by Rule 144 of the Act under the specific circumstances attendant to the Shares.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,

Bayside Realty Holdings, LLC

Name:
Title: Managing Member

Ex E

FEBRUARY 27, 2013

Dear Sirs:

Reference is made to the request of the undersigned (the "Holder") to convert a portion (the "Assigned Debt") of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Original Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 12,500 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. Reference is further made to that certain Securities transfer Agreement (the "Debt Purchase Agreement"), dated January 23, 2013, whereby the Holder purchased a portion of the Indebtedness from the Original Holder. Please note also that the purchase of the Assigned Debt herein was between the Holder and the Original Holder and **no consideration was paid to the Company** in connection with the Debt Purchase Agreement.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,

Wayne Coleson

Name: Wayne Coleson
Title: President, VERA Group, LLC
Address: 3 Painted Horse Santa Fe, NM 87506
Tax Id# [redacted]

FEBRUARY 27, 2013

Dear Sirs:

Reference is made to the request of the undersigned (the "Holder") to convert a portion (the "Assigned Debt") of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Original Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 137,500 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. Reference is further made to that certain Securities transfer Agreement (the "Debt Purchase Agreement"), dated January 23, 2013, whereby the Holder purchased a portion of the Indebtedness from the Original Holder. Please note also that the purchase of the Assigned Debt herein was between the Holder and the Original Holder and **no consideration was paid to the Company** in connection with the Debt Purchase Agreement.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,

S. [signature]

Name: Shraga Levin
Title: Manager, Starcity Capital, LLC
Address: 420 Crown Street Brooklyn, NY 11225
Tax Id# [redacted]

FEBRUARY 27, 2013

Dear Sirs:

Reference is made to the request of the undersigned (the "Holder") to convert a portion (the "Assigned Debt") of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Original Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 25,000 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. Reference is further made to that certain Securities transfer Agreement (the "Debt Purchase Agreement"), dated January 23, 2013, whereby the Holder purchased a portion of the Indebtedness from the Original Holder. Please note also that the purchase of the Assigned Debt herein was between the Holder and the Original Holder and **no consideration was paid to the Company** in connection with the Debt Purchase Agreement.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,

Name: Alexandra Mauriello
Title: Self
Address: 256 South Robertson Blvd. Beverly Hills, CA 90211
Tax Id# [redacted]

FEBRUARY 27, 2013

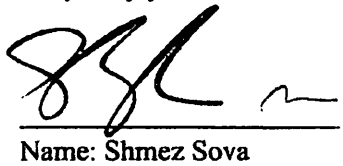
Dear Sirs:

Reference is made to the request of the undersigned (the "Holder") to convert a portion (the "Assigned Debt") of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Original Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 12,500 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. Reference is further made to that certain Securities transfer Agreement (the "Debt Purchase Agreement"), dated January 23, 2013, whereby the Holder purchased a portion of the Indebtedness from the Original Holder. Please note also that the purchase of the Assigned Debt herein was between the Holder and the Original Holder and **no consideration was paid to the Company** in connection with the Debt Purchase Agreement.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,



Name: Shmez Sova
Title: Manager, SGI Group, LLC
Address: 6538 North Christiana Ave. Lincolnwood, IL 60712

Tax Id# [redacted]

FEBRUARY 27, 2013

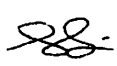
Dear Sirs:

Reference is made to the request of the undersigned (the "Holder") to convert a portion (the "Assigned Debt") of that certain indebtedness originally entered into May 2, 2011 in favor of Bayside Realty Holdings, LLC (the "Original Holder") in $275,000.00 principal amount (the "Indebtedness") of Fusion Pharm, Inc. (the "Company") into 12,500 free-trading shares (the "Converted Shares") of the common stock of the Company.

Specifically, the Holder has requested that the Company instruct its transfer agent to issue the Converted Shares free of the restrictive legend on the basis of Rule 144 ("Rule 144") of the Securities Act of 1933, as amended (the "Act") to the undersigned as set forth in that certain notice of conversion of even date herewith. Reference is further made to that certain Securities transfer Agreement (the "Debt Purchase Agreement"), dated January 23, 2013, whereby the Holder purchased a portion of the Indebtedness from the Original Holder. Please note also that the purchase of the Assigned Debt herein was between the Holder and the Original Holder and **no consideration was paid to the Company** in connection with the Debt Purchase Agreement.

Please be advised that, to the undersigned's knowledge, the Company has always had ongoing operations such that the Company has never been classified as a 'blank check company' or a 'shell company' and further that the undersigned is not now and, during the preceding three months, has not been, an affiliate of the Company as that term is defined by Rule 144 of the Act. The undersigned further authorizes you to rely on the herein representations for the purpose of rendering the requested opinion.

Very truly yours,



Name: Scott Levin
Title: Partner, Black Arch Opportunity Fund LP
Address: 230 Park Ave. Suite 539 New York, NY 10169
Tax Id# [redacted]

FUSION PHARM, INC.
Officer's Certificate

February 28, 2013

The undersigned, being the president and secretary of **FUSION PHARM, INC.** (the "Company"), on behalf of the Company and with the aim of securing a legal opinion ("Opinion") for the Company regarding, *inter alia*, its status as not being a "shell company" hereby assert that, to the best of our knowledge, the Company has had continuing operations from the original date of incorporation to the present and that it is not now and has never been a "shell company" within the definition of the term "shell company" as promulgated by the Securities and Exchange Commission. We note that the Opinion pertains to the conversion of certain indebtedness of the Company originally issued in favor of Bayside Realty Holdings, LLC (the "Original Holder") pursuant to that certain convertible promissory note (the "Promissory Note"), dated May 2, 2011 (the "Indebtedness Date"), by and between the Original Holder and the Company. We note further that the Original Holder subsequently, on or about January 23, 2013 (the "Transfer Date"), sold portions of the Promissory Note to various holders, some of whom now desire to convert a portion of the acquired indebtedness of the Company into shares (the "Shares") of the common stock of the Company to be issued in the name of such purchaser free of the restrictive legend. The list of current holders (each such holder hereinafter called, a "Shareholder" and, collectively, the "Shareholders") who wish to convert acquired indebtedness and the number of Shares to be issued to each such holder is attached hereto as Exhibit A.

The undersigned hereby further warrants and represents as follows:

1) That in my position with the Company I have the requisite knowledge of the facts presented in this Certification, and the authority to make the representations without further action or approval;

2) That none of the Original Holder nor any of the Shareholders is now, nor has ever been such as of the Transfer Date nor at any time during the preceding 90 days, an "Affiliate" of the Company. Under 17 CFR 230.144(a)(1) an Affiliate of an issuer is "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer. Moreover, each of the Original Holder and the Shareholders has, during the referenced 90 days to the present, been an outsider to the Company and its management, and has no other method of control over the Company;

3) That the Note, or portion thereof, dated May 2, 2011 in $275,000.00 principal amount that is being converted by the Shareholder is a valid obligation of the Company as of the date of the Conversion Notice and as of the date hereof, the Note has not otherwise been fully paid, and the Company certifies that the

conversion rates outlined in the Conversion Notice from the Shareholder is true and correct;

4) That the Company is not a "Shell" company as that term is defined in Securities Act Rule 405 (i.e. a company that has: (1) no or nominal operations; and EITHER (2) (i) No or nominal assets; (ii) assets consisting solely of cash and cash equivalents; or (iii) assets consisting of any amount of cash and cash equivalents and nominal other assets);

5) That to the best of the Company's information and belief, after due investigation, the Company has always had operations and has never been a Shell company in its corporate history.

We further understand and acknowledge that it is impossible for an independent third party to make an independent inquiry of the Company's ongoing status as certified in this certificate. As such, we authorize the attorneys preparing the requested opinion and each of their members, employees, agents and affiliates (the "Legal Personnel") to rely exclusively on the foregoing representation for the purpose of rendering the Opinion. Further, on behalf of the Company and its officers and directors, we hereby agree to indemnify and hold the Legal Personnel harmless from any claim, loss or liability resulting from any action or threatened action arising from reliance on the herein representation.

Signed: _____

Name: Scott Dittman

Title: President

FUSION PHARM, INC.
Officer's Certificate

March 29, 2013

The undersigned, being the president and secretary of **FUSION PHARM, INC.** (the "Company"), on behalf of the Company and with the aim of securing a legal opinion ("Opinion") for the Company regarding, *inter alia*, its status as not being a "shell company" hereby assert that, to the best of our knowledge, the Company has had continuing operations from the original date of incorporation to the present and that it is not now and has never been a "shell company" within the definition of the term "shell company" as promulgated by the Securities and Exchange Commission. We note also that the Opinion pertains to the conversion of certain indebtedness of the Company held by Meadpoint Venture Partners, LLC (the "Shareholder") into 475,000 shares (the "Shares") of the common stock of the Company to be issued in the name of the Shareholder free of the restrictive legend. We further note that the referenced indebtedness was originally issued in favor of the Shareholder pursuant to that certain convertible promissory note (the "Promissory Note"), dated December 8, 2011 (the "Record Date"), by and between the Shareholder and the Company.

The undersigned hereby further warrants and represents as follows:

1) That in my position with the Company I have the requisite knowledge of the facts presented in this Certification, and the authority to make the representations without further action or approval;

2) That the Shareholder is not now, nor has ever been such at any time during the preceding 90 days, an "Affiliate" of the Company. Under 17 CFR 230.144(a)(1) an Affiliate of an issuer is "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer. Moreover, the Shareholder has, during the referenced 90 days to the present, been an outsider to the Company and its management, and has no other method of control over the Company;

3) That the Note, or portion thereof, dated December 8, 2011 in $88,000.00 principal amount that is being converted by the Shareholder is a valid obligation of the Company as of the date of the Conversion Notice and as of the date hereof, the Note has not otherwise been fully paid, and the Company certifies that the conversion rates outlined in the Conversion Notice from the Shareholder is true and correct;

4) That the Company is not a "Shell" company as that term is defined in Securities Act Rule 405 (i.e. a company that has: (1) no or nominal operations; and EITHER (2) (i) No or nominal assets; (ii) assets consisting solely of cash and cash equivalents; or (iii) assets consisting of any amount of cash and cash equivalents and nominal other assets);

5) That to the best of the Company's information and belief, after due investigation, the Company has always had operations and has never been a Shell company in its corporate history.

We further understand and acknowledge that it is impossible for an independent third party to make an independent inquiry of the Company's ongoing status as certified in this certificate. As such, we authorize the attorneys preparing the requested opinion and each of their members, employees, agents and affiliates (the "Legal Personnel") to rely exclusively on the foregoing representation for the purpose of rendering the Opinion. Further, on behalf of the Company and its officers and directors, we hereby agree to indemnify and hold the Legal

Personnel harmless from any claim, loss or liability resulting from any action or threatened action arising from reliance on the herein representation.

Signed: _____

Name: Scott Dittman
Title: President

FUSION PHARM, INC.
Officer's Certificate

August 8, 2013

The undersigned , being the president and secretary of FUSION PHARM, INC. (the "Company"), on behalf of the Company and with the aim of securing a legal opinion ("Opinion") for the Company regarding, *inter alia*, its status as not being a "shell company" hereby assert that, to the best of our knowledge, the Company has had continuing operations from the original date of incorporation to the present and that it is not now and has never been a "shell company" within the definition of the term "shell company" as promulgated by the Securities and Exchange Commission. We note also that the Opinion pertains to the conversion of certain indebtedness of the Company held by Meadpoint Venture Partners, LLC (the "Shareholder") into 500,000 shares (the "shares") of the common stock of the Company to be issued in the name of the Shareholder free of the restrictive legend. We further note that the referenced indebtedness was originally issued in favor of the Shareholder pursuant to that certain convertible promissory note (the "Promissory Note"), dated December 8, 2011 (the "Record Date"), by and between the Shareholder and the Company.

The undersigned hereby further warrants and represents as follows:

1) That in my position with the Company I have the requisite knowledge of the facts presented in this Certification , and the authority to make the representations without further action or approval;

2) That the Shareholder is not now, nor has ever been such at any time during the preceding 90 days, an "Affiliate" of the Company. Under 17 CFR 230.144(a)(1) an Affiliate of an issuer is "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer. Moreover, the Shareholder has, during the referenced 90 days to the present, been an outsider to the Company and its management, and has no other method of control over the Company;

3) That the Note, or portion thereof, dated December 8, 2011 in $88000.00 principal amount that is being converted by the Shareholder is a valid obligation of the Company as of the date of the Conversion Notice and as of the date hereof, the Note has not otherwise been fully paid, and the Company certifies that the conversion rates outlined in the Conversion Notice from the Shareholder is true and correct.

4) That the Company is not a "Shell" company as that term is defined in Securities Act Rule 405 (i.e. a company that has: (1) no or nominal operations and EITHER (2) (i) No or nominal assets; (ii) assets consisting solely of cash and cash equivalents; or (iii) assets consisting of any amount of cash and cash equivalents and nominal other assets);

5) That to the best of the Company's information and belief after due investigation, the Company has always had operations and has never been a Shell company in its corporate history.

We further understand and acknowledge that it is impossible for an independent third party to make an independent inquiry of the Company's ongoing status as certified in this certificate. As such,we authorize the attorneys preparing the requested opinion and each of their members, employees, agents and affiliates (the "Legal Personnel") to rely exclusively on the foregoing representation for the purpose of rendering the Opinion. Further, on behalf of the Company and its officers and directors, we hereby agree to indemnify and hold the Legal

Personnel harmless from any claim, loss or liability resulting from any action or threatened action arising from reliance on the here representation.

Signed: _____

Name: Scott Dittman

Title: President