UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18061

In the Matter of

RETIREMENT SURETY LLC, CRESCENDO FINANCIAL LLC, THOMAS ROSE, DAVID LEEMAN, AND DAVID FEATHERSTONE

Respondents.

DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENTS THOMAS ROSE, DAVID LEEMAN, AND DAVID FEATHERSTONE

DIVISION OF ENFORCEMENT
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Dated: April 19, 2019

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The Division of Enforcement ("Division") respectfully submits this Motion for Summary Disposition against Respondents Thomas Rose ("Rose"), David Leeman ("Leeman"), and David Featherstone ("Featherstone") (collectively "Respondents").

PRELIMINARY STATEMENT

This case concerns Respondents' repeated violations of Section 5(a) and (c) of the Securities Act of 1933 ("Securities Act") and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), for acting as unlicensed brokers on numerous unregistered sales of promissory notes issued by Verto Capital Management LLC ("Verto"). On November 14, 2017 the Commission entered an order partially settling this proceeding, and the only issues remaining for this Court to determine are the appropriate measure of disgorgement and civil money penalties against Respondents. The settled order further provides that, for the purpose of adjudicating this motion, this Court is to accept as true the factual allegations set forth in the Order Instituting Proceedings in this case. The Division respectfully seeks disgorgement of Respondents' commissions earned as a result of their violations, plus prejudgment interest. Respondents earned the following commissions: Rose earned $297,360.00, Leeman earned $243,435.00, and Featherstone earned $120,760.00. Also, for the reasons stated below, the Division respectfully seeks the maximum available civil money penalty against each Respondent.

PROCEDURAL AND FACTUAL HISTORY

I. Procedural History

On July 6, 2017, the Securities and Exchange Commission ("Commission") issued an order instituting proceedings ("OIP") seeking against Respondents certain remedial measures, including a cease-and-desist order, disgorgement plus prejudgment interest, and civil penalties. The OIP alleges that from at least November 2013 through November 2015, Respondents willfully violated Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act by acting as

unregistered brokers in the sale of unregistered securities – nine-month promissory notes issued by Verto Capital Management LLC ("Verto Notes").

On November 14, 2017, the Commission. issued a partial settled order ("Order"), pursuant to which Respondents, without admitting or denying the allegations of the OIP, consented to a Commission Order ordering that: (1) "Respondents willfully committed violations of Securities Act Sections 5(a) and (c)" and "Respondents willfully committed violations of Exchange Act Section 15(a)(1)"; (2) "Respondents cease-and-desist from committing or causing any violations or any future violations" of the charged provisions; and (3) "Respondents Rose and Leeman are each suspended for 9 months" and "Respondent Featherstone is suspended for 6 months from being associated with a broker, dealer, investment advisor, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating association, or from participating in an offering of penny stock." *Retirement Surety LLC*, Securities Act Release No. 10436, 2017 SEC LEXIS 3583 ("Order"). The Order further provided for additional proceedings "to determine what, if any, disgorgement, prejudgment interest, and civil penalties are appropriate in the public interest against Respondents," and stated that Respondents "agree that they will each be precluded from arguing that they did not violate the federal securities laws described in this Order," and Respondents "agree that they may not challenge the validity of this Order or of their Offer," and that "solely for the purposes of such additional proceedings, the findings in Section III of this Order [*i.e.*, the OIP allegations] shall be accepted as and deemed true by the hearing officer." Order ¶ IV. The Order also provided that the hearing officer had discretion to "determine the issues raised in the additional proceedings on the basis of the written record, without a hearing" and that "Respondents do not concede that commissions earned are the appropriate measure of disgorgement." *Id.*

On April 18, 2018, ALJ Elliot granted the Division's motion for summary disposition and issued an Initial Decision. On June 21, 2018, the Commission issued an order staying any pending administrative proceedings in light of the Supreme Court's decision in *Lucia v. SEC*. This proceeding was subsequently assigned to ALJ Foelak and then reassigned by order dated March 4, 2019 to ALJ Grimes.

The Division now moves for summary disposition as follows: for Rose, disgorgement of $297,360.00, plus $31,845.54 in prejudgment interest, and the maximum available civil money penalty; for Leeman, disgorgement of $243,435.00, plus $26,070.48 in prejudgment interest, and the maximum penalty; and for Featherstone, disgorgement of $120,760.00, plus $12,932.72 in prejudgment interest, and the maximum penalty. In support of this motion, the Division attaches its prejudgment interest calculations for each Respondent. *See* Declaration of Jennifer K. Vakiener ("Vakiener Decl.") Exs. A-C.

II. Statement of Facts

A. Respondents Acted as Unregistered Brokers for the Unregistered Sales of Notes

The bulk of the following facts are contained in the Order, which the Court is to deem true for the purposes of adjudicating this motion, and additional facts are supported by exhibits to the Vakiener Decl. submitted along with this motion.

1. Respondents were not registered with the Commission

During the relevant period, Rose, Leeman, and Featherstone purported to be licensed insurance agents in Texas. Order ¶¶ III.A.3-.5. However, none of them held any securities licenses or have ever been registered as, or associated with, a registered broker-dealer. *Id.* Rose stated that he, Leeman, and Featherstone were aware that they were "obviously not securities licensed." Vakiener Decl. Ex. D, Rose transcript, at 110:4-6.

Respondents were partners of Retirement Surety, a Texas limited liability company formed in 2010. Order ¶¶ III.A.1, 3-.5. Rose and Leeman were also partners of Crescendo, a second Texas limited liability company formed on June 18, 2013; Featherstone was a representative. *Id.* ¶¶ III.A.2-.5. During the relevant period, the companies' websites described both entities as "Christian organization[s]" comprised of "licensed partners" from "outside of the financial services industry." *Id.* ¶¶ III.A.1-.2. Retirement Surety provided investment advice for retirement planning. *Id.* ¶ III.A.1. Crescendo's sole function was to broker the sale of Verto Notes. *Id.*¶ III.A.2. Like the individual Respondents, Retirement Surety and Crescendo were never registered as, or associated with, a registered broker-dealer. *Id.* ¶¶ III.A.1-.2.

2. The offering of Verto Notes was not registered

Verto is a Delaware Limited Liability Company that issued securities in the form of 7% promissory notes sold by Respondents (the "Verto Notes"). Order ¶¶ III.B.9, III.C.12, .26. From at least November 2013 through November 2015, Verto issued approximately $12.5 million in Verto Notes to individual investors. *Id.* ¶ III.C.12. Respondents acted as brokers for these sales, selling Verto Notes directly to individual investors and receiving commissions from Verto for each Verto Note sale. *Id.* No registration statement was filed or in effect for the offering and sales of Verto Notes, and no valid exemption from registration existed for the Verto Notes offering. *Id.* ¶ III.C.28.[1]

[1] At least five of the Verto Note investors were unaccredited, as Respondents knew because the investors' paperwork showed that some did not have sufficient income or net worth to qualify as "accredited," and some investors did not check the box indicating they were accredited. *Id.* In addition, Respondents sold Verto Notes to the unaccredited investors without the investors having received the financial information required by Securities Act Rule 502(b)(2) (such as a Verto financial statement). *Id.* Also, no Form D was filed with the Commission stating that Verto had complied with the exemptions in Rule 506 of the Securities Act. *Id.*

3. *Respondents acted as brokers in selling the Verto Notes*

In brokering the Verto Note sales, Respondents provided investors Verto offering materials describing its business and the purpose of the Verto Note Sales. *Id.* ¶ III.C.13. The offering materials stated that "[Verto] is engaged in the business of sourcing, valuing and selecting life insurance policies for resale to investors ('Life Settlements')" and "[t]he Note Amount shall be used by [Verto] for general working capital purposes including but not limited to fund [Verto's] purchase and acquisition of life insurance policies." *Id.* The offering materials also described Verto's "Trading Strategy" as an investment in a common enterprise for profit: "As polices [sic] come to the secondary market, [Verto], together with its affiliate Senior Settlements, LLC, will seek to identify policies that have significant arbitrage opportunities and look to acquire the policy at significant discounts from the potential resale value" and "[Verto's] ability to make scheduled payments on the Promissory Notes outstanding at any particular time depends on [Verto's] financial condition and operating performance, which is subject to the Issuer successfully executing its trading strategy..." *Id.*

Respondents regularly participated in all key points in the chain of sale and distribution of the Verto Notes, including soliciting investors to purchase the Verto Notes, advising investors regarding the Verto Notes, handling all necessary paperwork to effectuate the Verto Notes sales, monitoring and managing repayments to investors, and negotiating and arranging so-called "forbearance agreements" between the Verto Note holders and Verto. *Id.* ¶ III.C.16. Respondents solicited Verto Note investors through Respondents' own radio broadcasts and internet postings, and directly from their pool of existing insurance product clients. *Id.* ¶ III.C.17. On radio shows broadcast on at least two Christian radio networks, Respondents Rose and Leeman described the Verto Note program and directed radio listeners to the website for Respondents' entity Retirement

Surety.[2] Retirement Surety's website described the Verto Notes as "A Nine Month, Short-Term Investment with significantly higher returns than CDs or other safe money investments," and highlighted that the notes were "200% collateralized" by life settlement policies. *Id.* ¶ III.C.18. Similarly, the website for Respondents' entity Crescendo touted the Verto Notes as a "Short Term Investment with Superior Returns and Minimal Risk," explaining that it was a low risk investment and "not a speculative investment influenced by market performance or the economy but rather an investment backed by 200% collateral with a known value."[3] *Id.* ¶ III.C.19.

In brokering the Verto Note sales, Respondents also expressly held themselves out as financial advisors providing specialized knowledge on investments, *id.* ¶ III.C.25, even though none of the Respondents has ever been registered as or associated with a registered broker-dealer, *id.* ¶ III.C.29. In a brochure that they provided to investors, Respondents stated: "Take Control and hit your investment target – Offered through a Crescendo Financial Investment Advisor, www.crescendofinancial.net." *Id.* ¶ III.C.25. Retirement Surety's website outlined "five principles for your investments," and stated "[o]ur clients have never lost a penny of principal!" *Id.* In subscriber information forms for the Verto Notes, Respondents frequently listed their relationship to the investor as a "Financial Advisor." *Id.*

Respondents earned transaction-based compensation for each Verto Note sale. *Id.* ¶ III.C.21. For each Verto Note that they sold. they earned a 7% commission, 5% of which went to

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[2] Retirement Surety is a Texas company formed in 2010 which, according to its website, was comprised of a group of "state licensed partners," all from "career[s] outside of the financial services industry" who provided investment advice for retirement planning. Order ¶ III.A.1. From at least 2013 through 2015, Retirement Surety was managed by Respondents. *Id.*

[3] Crescendo is a Texas company formed in 2013, whose sole function was to broker Verto Note sales. Order ¶ III.A.2. According to its website, Crescendo was a "practicing Christian organization" comprised of a group of "licensed partners," all from "career[s] outside of the financial services industry" who sell "investments . . . [that] have placed our clients on a new course to reach their financial goals." *Id.* At all relevant times, Crescendo was managed by Respondents Rose and Leeman. *Id.*

the individual Respondent who sold the note. and 2% of which went to Crescendo. *Id.* When Verto was unable to repay investors amounts due under their original Verto Notes. Respondents presented the investors with documents entitled "Forbearance Agreements," which extended the terms of the Verto Notes. *Id.* ¶ III.C.22. For each Forbearance Agreement, Respondents earned an additional 4% commission (on top of their initial 7% sales commission at the time of issuance). *Id.* Some investors were presented with second "Forbearance Agreements," for which the Brokers received another 4% commission on the unpaid outstanding balance. *Id.* The following table lists the commissions earned by Respondents Rose. Leeman, and Featherstone from 2013 through 2016 for both the initial Verto Note sales and subsequent forbearance agreements:

Broker	# of Investors	# of Notes Sold	Principal Amount of Notes Sold	Commissions (Issuance)	Commissions (1st Forbearance)	Commissions (2nd Forbearance)	Total Commissions
Rose	37	70	$5.064.391	$217.130	$63,864	$16,366	$297,360
Leeman	24	53	$4,227,540	$212,263	$18,459	$12,713	$243,435
Featherstone	8	25	$2,370,455	$115,414	$5,346	$0	$120,760

Id. ¶ III.C.24.

4. Respondents brokered Verto Notes despite concerns that they were securities

In late 2012 or early 2013, Schantz recruited Rose to begin selling Verto Notes. Vakiener Decl. Ex. D, Rose Transcript, at 107:1-4. Rose and Leeman then formed Crescendo as a vehicle for the sale of the Verto Notes. *See* Order ¶ III.A.2. During the Division's investigation of this case, Rose testified that the Verto Note offerings caught his attention because he thought "it was not a security" based on the "advi[ce] by [Schantz] and his attorneys," including John Pauciulo. Vakiener Decl. Ex. D, Rose Transcript, at 107:1-4, 138:1-139:4. Leeman testified that he knew that Mr. Pauciulo was "from a very large and reputable law firm in Philadelphia." Vakiener Decl. Ex. E, Leeman Transcript, at 105:18-23. Leeman also confirmed that he had received, directly or indirectly, Mr. Pauciulo's views and "the testimony of Mr. Schantz, who we believed would have never engaged in selling this if his attorney had said you better not, it is a security." *Id.* at 106:12-

18. But Rose has acknowledged that Schantz's law firm was "[n]ot necessarily our law firm." Vakiener Decl. Ex. D, Rose Transcript, at 108:10-14.

Before November 2013, Crescendo hired its own attorney. David Shelmire – not to provide advice regarding the securities laws but, rather, to be prepared to claim the collateral securing the Verto Notes in "the unlikely event" that it became necessary. Vakiener Decl. Ex. E, Leeman Transcript, at 106:19-107:10, 108:10-23. However, when the Division asked Leeman what advice Crescendo sought or received from Mr. Shelmire, Leeman invoked attorney-client privilege. *Id.* at 107:12-108:1. Rose has asserted that Mr. Shelmire is a securities lawyer, but Leeman testified that he was unaware of Mr. Shelmire's subject matter qualifications. *Compare id.* Ex. D. at 110:22-24 *with* Ex. E at 108:25-109:2.

Rose and Leeman also claim to have done "Google searches" and other self-directed research to determine whether the Verto Notes were securities. *Id.* Ex. D at 109-110 *id.* Ex. E at 109-110. Rose testified that he looked at "an SEC document that says there [are] exemptions to a nine month note being a security" and "found other things out on the Internet from different law firms . . . saying. that nine month notes may or may not be a security." *Id.* Ex. D at 108:10-24. Leeman also claims to have looked at SEC documents and to have reviewed law firm websites. Vakiener Decl. Ex. E at 109:10-16. However, Rose and Leeman do not identify which SEC or law firm guidance they reviewed.

On November 15, 2013, Leeman wrote an email to Schantz stating that Leeman received a call from another potential Verto Note broker. Vakiener Decl. Ex. F. Leeman wrote that the potential broker had retained an attorney, Thomas Sherman, to "do his due diligence," and that Sherman "recommended that he not participate" based on Sherman's "opinion that [the Verto Note] is a security." *Id.*; Order ¶ III.C.27. Leeman then emailed Schantz to ask whether Schantz

had ever taken the issue to his attorney, Vakiener Decl. Ex. F, and Schantz replied that Schantz's "very good and expensive counsel" had "vet[ted] these issues and there is no problem at all." *Id.*

Sherman followed up by emailing Schantz a list of questions identifying issues with the Verto Notes offering under the Securities Act, the Exchange Act, and the Investment Company Act. Vakiener Decl. Ex. G. Leeman was copied on the correspondence. *Id.* On November 20, 2013, he responded to Sherman: "So this is what it's all about!! The plot thickens. Nice that we have an attorney [Sherman] vetting the company for us on [the potential broker's] nickel!!" *Id.* Leeman concluded the email chain with, "Sure hope it's all OK because I wrote up $75,000 today!" *Id.* Leeman forwarded the email to Rose stating "thought you should see what this attorney is questioning. . ." Vakiener Decl. Ex. H. No evidence exists that Leeman followed up with Sherman or Schantz about the issues that Sherman identified, even though, as Respondent Rose testified, he and Respondent Leeman "wanted to make sure that what [they] were offering was not a security." Vakiener Decl. Ex. D, Rose Transcript, at 136.

Around the time that Leeman learned of Sherman's view that the Verto Notes were securities, Respondents began to sell Verto Notes. *See* Order ¶ III.C.12. The Respondents then marketed and brokering the Verto Notes for approximately seven months including through radio advertisements, *Id.* ¶ III.C.18., and through their website which touted them as low risk, *id.* ¶¶ III.C.18-.19, before addressing their concern with Schantz by email. On June 24, 2014, Leeman emailed Schantz, copying Rose, to ask about Schantz's sale of unregistered nine-month securities that resulted in sanctions by NASD in 2002. *See id.* ¶ III.C.27. Leeman asked "[i]n the SEC issue you had for selling Promissory Notes in 2001 as non-securities when the SEC claimed that they

were securities, what was the difference between those and what we have? It looks like they were also 9 month notes." *Id.*[4]

In August 5, 2014, after Respondents had been brokering the Verto Notes for nine months, Mr. Schantz forwarded to Rose and Leeman an email from Mr. Pauciulo stating that "providing a formal legal opinion on this point would not be feasible" because of its complexity. *Id.* Ex. 1. But Mr. Pauciulo stated that he "th[ought] that a regulator or court should find that the notes are exempt" and that they had been "drafted . . . with the intent to meet the requirements of the 9 month note exemption." *Id.* Mr. Pauciulo also suggested changing Respondents' compensation so that instead of receiving a commission from Verto, they would be paid "a fee for the purchaser" as a "purchaser representative." *Id.* Mr. Pauciulo offered to draw up the appropriate paperwork, *id.*, but there is no evidence that he did so.

When Verto was unable to repay investors under the terms of the Verto Notes, Rose, Leeman, and Featherstone presented investors with "forbearance agreements," which extended the terms of the Verto Notes. *Id.*¶ III.C.22.

B. The Respondents' Present Financial Conditions[5]

1. Rose

Rose is 63 years old, married, and self-employed. Resp. App. at 1010; *see* Order ¶ III.A.3. Rose and his wife have no dependents. Resp. App. at 375. As of February 14, 2019, their net worth was [redacted], and they owned significant real and personal property. *Id.* at 420-21. For example, in addition to their primary residence, Rose and his wife own a second home with over [redacted] in

[4] In addition, at some point, Rose, Leeman, and Featherstone learned of Schantz's 2006 consent order in New Jersey resulting from the same incident as the NASD sanctions. Order ¶ III.C.27.

[5] The information in this brief concerning each Respondents' financial condition comes from Respondents' Appendix of Financial Affidavits and Supporting Documentation dated March 25, 2019 ("Resp. App."), which has been ordered sealed, and the Division accepts that information as true solely for purposes of this motion.

equity,[6] and they own three annuities with cash surrender balances that, taken together, total over [redacted]. *Id.* at 425. The Roses' current gross monthly income is approximately [redacted] per month. *Id.*at 1010. And although their current monthly expenses exceed this amount, *id.* at 1011, no evidence exists that they have attempted to reduce expenses.

2. Leeman

Leeman is 69 years old, married, and self-employed. Resp. App. at 418;*see* Order ¶ III.A.4. Leeman and his wife have no dependents. Resp. App. at 361. As of May 23, 2017 (the latest financial statement provided), the Leemans' net worth was [redacted]. *Id.* at 3. Their current gross monthly income is approximately [redacted]. *Id.*at 419. And although their current monthly expenses exceed this amount, *id.*, no evidence exists that they have attempted to reduce expenses. Leeman has [redacted] that may result in a future financial burden, *Id.* at 418, but he has provided no evidence regarding either costs incurred to date, or anticipated costs.

3. Featherstone

Featherstone is 72 years old, married, and self-employed. Resp. App. at 1425; *see* Order ¶ III.A.5. He and his wife have [redacted]. Resp. App. at 1425. As of May 17, 2017 (the latest date on which Featherstone provided a statement), the net worth of Featherstone's household was [redacted], *id.* at 1013, which consisted of significant real and personal property, including insurance policies with cash surrender values totaling [redacted], *id.* at 1012. The Featherstone household's average gross monthly income is approximately [redacted] (based on reported gross yearly income of [redacted], *id.* at 1425).

ARGUMENT

Summary disposition is appropriate where, as here, no genuine dispute exists regarding any material fact, and the moving party is entitled to summary disposition as a matter of law. 17 C.F.R.

[6] The home is worth [redacted], *id.* at 422, with a mortgage balance of [redacted], *id.* at 423.

§ 201.250(c); *China-Biotics, Inc.*, Exchange Act Release No. 70800, 2013 WL 5883342, at *15 n.105 (Nov. 4, 2013) (summary disposition "has been applied in cases alleging a variety of securities law violations," not just in follow-on proceedings).

I. Disgorgement and Prejudgment Interest

For the following reasons, the Division respectfully requests that the Court order Respondents to pay disgorgement and prejudgment interest in the following amounts: for Rose, disgorgement of $297,360.00, plus $31,845.54 in prejudgment interest; for Leeman, disgorgement of $243,435.00, plus $26,070.48 in prejudgment interest; and for Featherstone, disgorgement of $120,760.00, plus $12,932.72 in prejudgment interest.

A. Applicable Law

Exchange Act Sections 21B(e) and 21C(e) authorize disgorgement, including reasonable interest, in this proceeding if appropriate. 15 U.S.C. §§ 78u-2(e), 78u-3(e). The underlying purpose of disgorgement "is to make lawbreaking unprofitable for the lawbreaker." *Moshe Marc Cohen*, AP File No. 3-15790, 2016 WL 4727517, *15 (Sep. 9, 2016) (Commission Opinion) (quoting *SEC v. Conterinis*, 743 F.3d 296, 301 (2d Cir. 2014)). The SEC is "entitled to disgorgement upon producing a reasonable approximation of defendant's ill-gotten gain." *SEC v. Calvo*, 378 F.3d 1211, 1217 (11th Cir. 2004). Once the Commission has satisfied its burden of proof, the burden shifts to the respondent, who must then demonstrate that the Commission's estimate is not a reasonable approximation. *Calvo*, 378 F.3d. at 1217; *see also SEC v. First City Fin. Corp.*, 890 F.2d 1215, 1232 (D.C. Cir. 1989).

Disgorgement is appropriate in cases involving broker registration violations. *See Curtis A. Peterson*, AP File No. 3-17393, 2017 WL 2106270 (ALJ Apr. 19, 2017) (imposing disgorgement against respondent whose sole violation was Exchange Act Section 15(a)(1)); *Kenneth C. Meissner*, AP File No. 3-16175, 2015 WL 4624707, *12-13 (ALJ Aug. 4, 2015) (imposing disgorgement

against respondent whose sole violation was Exchange Act Section 15(a)(1)); *cf SEC v. Rockwell Energy of Texas, LLC*, 2012 WL 360191, *6 (S.D. Tex. Feb. 1, 2012) ("Disgorgement is appropriate not only in cases of fraud ... but also where a defendant violates the securities registration provision of the federal securities laws."). Commissions from unlawful sales can provide the reasonable approximation of respondent's ill-gotten gains. *Ralph Calabro*, AP File No. 3-15015, 2015 WL 3439152, *44-54 (May 29, 2015)(Commission Opinion).

Additionally, the Commission may order prejudgment interest at its discretion to prevent securities law violators from accruing supplemental benefits from the use of the unlawful profits. *SEC v. Warde*, 151 F.3d 42, 50 (2d Cir. 1998); *SEC v. First Jersey Securities, Inc.*, 101 F.3d 1450, 1475 (2d Cir. 1996), *cert. denied*, 522 U.S. 812 (1997) (imposing the IRS underpayment rate); *SEC v. Hughes Capital Corp.*, 917 F. Supp. 1080, 1090 (D.N.J. 1996), *aff'd*, 124 F.3d 449 (3d Cir. 1997) ("It comports with the fundamental notions of fairness to award prejudgment interest.")

B. Amount of Disgorgement and Prejudgment Interest

As alleged in the Order, Respondents Rose, Leeman, and Featherstone received commissions from Verto of $297,360.00, $243,435.00, and $120,760.00, respectively, for their participation in the unregistered offers and sales of the Verto Notes, Order ¶ III.C.24, which are securities, *id.* ¶ III.C.26. For the purposes of this motion, the Court is to accept as true the findings in Section III of the Order, including the above figures representing the amounts Respondents earned. *Id.* ¶ III.C.24. Accordingly, the undisputed amounts Respondents earned on the Verto Notes and forbearance agreements are the appropriate measure of disgorgement.[7]

[7] To the extent Respondents contend that the forbearance agreements are not securities, and that, therefore, the commissions earned on them should not be included, that argument misses the point. The forbearance agreements extended the terms of the Verto Notes, (Order ¶ 22) and, thus, were derivative of the original unregistered sales. Respondents' additional commissions thus are ill-gotten gains "causally related" to Respondents' securities violations. *Dennis J. Malouf*, Securities Act Release No. 10115, 2016 WL 4035575, at *26 (July 27, 2016), *corrected*, Securities Act

Given that the Commission's proposed disgorgement adequately reflects a reasonable estimate of the Respondents' ill-gotten gains, the Respondents carry the substantial burden of clearly demonstrating the unreasonableness of the aforementioned consented to amounts. *Calvo*, 378 F.3d at 1217; *First City*, 890 F.2d at 1232. Furthermore, any claim by Respondents that they already have spent their ill-gotten gains, for whatever purpose, should not affect the Court's disgorgement calculation. *In Re Moshe Marc Cohen*, 2016 WL at * 15 (where entirety of sales commissions earned were ordered disgorged, inability to pay by virtue of having spent the ill-gotten gains or due to financial hardship irrelevant in defense to a motion for order of disgorgement); *SEC v. Universal Express, Inc.*, 2009 WL 2486057, at *7-11 (S.D.N.Y. Aug. 14, 2009) (concluding "it is irrelevant for disgorgement purposes how the defendant chose to dispose of the ill-gotten gains; subsequent investment of these funds, payments to charities, and/or payment to co-conspirators are not deductible from the gross profits subject to disgorgement"); *SEC v. Benson*, 657 F. Supp. 1122, 1134 (S.D.N.Y. 1987) ("The manner in which [the defendant] chose to spend his misappropriations is irrelevant as to his objection to disgorge.").

Moreover, neither does a "respondent's claim of financial hardship provide a defense to a motion for an order of disgorgement." *Id.*; *see also SEC v. Warren*, 534 F.3d 1368, 1369 (11th Cir. 2008) ("nothing in the securities laws expressly prohibits a court from imposing penalties or disgorgement liability in excess of a violator's ability to pay"). Although "[t]he hearing officer may, in his or her discretion, considering evidence concerning ability to pay in determining whether disgorgement, interest or a penalty is in the public interest," 17 C.F.R. § 201.630(a), there is no rule that requires a reduction. The *Peterson* initial decision is instructive on this issue. In that case, the Court rejected respondent's arguments that he should not be required to disgorge the

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Release No. 10207, 2016 WL 4761084 (Sept. 13, 2016), pet. filed, No. 16-9546 (10th Cir. Sept. 8, 2016); *see Comeaux*, 2014 WL 4160054, at *3 (requiring "but-for causation").

commissions he earned acting as an unregistered broker, including on the grounds of inability to pay.[8] *Peterson*, 2017 WL 2106270 at *4-9. The Court found that a reduction of disgorgement was unwarranted because, although respondent claimed "financial hardship," he did not establish that he would be unable to pay the amount sought. *Id.* at *8-9.

Like the respondent in *Peterson*, Respondents here are unable to demonstrate that they would be unable to pay the disgorgement the Division seeks. To the contrary, the financial information they supplied shows that they possess sufficient assets to pay the requested disgorgement. As an initial matter, each Respondent earns gross household monthly income over [redacted]: Featherstone receives [redacted]. Resp. App. at 1425. Leeman receives [redacted] per month, *id.* at 419; and Rose receives [redacted], *id.* at 1010.

Second, each Respondent's household net worth is comparable to, or greatly exceeds, the requested disgorgement. Featherstone's net worth is [redacted] times the requested disgorgement ([redacted] net worth, Resp. App. at 1013, versus $120,760 Featherstone received in commissions, Order ¶24). Rose's net worth is more than [redacted] the requested disgorgement ([redacted] net worth, Resp. App. at 420, versus $297,360 Rose received in commissions, Order ¶24). And Leeman's net worth, although smaller, is comparable to the requested disgorgement ([redacted] net worth, Resp. App. at 3, versus $243,435 Leeman received in commissions, Order ¶24).

[8] The respondent in *Peterson* also argued that he should not have to disgorge his commissions because at the time he was receiving illegal commissions he was not aware of the fraud underlying the scheme or that his unregistered broker activity was unlawful. The Court rejected that argument and found that "neither ignorance of the law nor lack of fraudulent conduct break the causal connection between Respondent's commissions and his violation of Exchange Act Section 15(a)(1), which does not require scienter." *Peterson*, 2017 WL 2106270 at *4-5. The Court went on to reject arguments that the disgorgement amount be offset by taxes paid and payment he made for "treatments for his special needs son and home repair," finding that how the respondent chooses to spend his money is immaterial to disgorgement. *Id.* at *8.

In any event, even if the Court were to find that "it will be difficult for [a Respondent] to pay sanctions," the Court should still be "reluctant to relieve [a respondent] entirely of his [disgorgement] obligation." *Middlebury Securities LLC et al.*, AP File Nos. 3-16227, 3-16229, at 13 (ALJ Mar. 1, 2017). This is particularly true when, as a general matter, respondents may be able to enter into an installment plan with the Commission that will allow for them to pay any sanctions over time, *id.* at 14, and, with respect to Respondents, each has a gross household income of over [redacted] per month, as described above.[9]

Consistent with the equitable principles of disgorgement, Respondents should likewise be ordered to pay pre-judgment interest. *Peterson*, 2017 WL 2106270 (imposing prejudgment interest for violation of Exchange Act Section 15(a)(1)); *Hughes Capital*, 917 F. Supp. at 1090. The Division has calculated prejudgment interest starting on January 1, 2017, after Respondents received all of their ill-gotten gains. Application of the IRS rate over this time period to the total commissions each Respondent received results in in prejudgment interest of: $31,845.54 for Rose; $26,070.48 for Leeman; and $12,932.72 for Featherstone. Vakiener Decl. Exs. A-C.

II. Civil Money Penalty

For the following reasons, the Division respectfully requests that the court order the maximum available civil money penalties against Respondents for their violations described above.

The federal securities laws authorize the Commission to impose civil penalties for violations of the securities laws. 15 U.S.C. §§ 77h-1(g); 78u-2(a). Civil penalties serve the dual purpose of penalizing respondents for past violations and deterring them from future misconduct.

---

[9] Respondents' financial conditions are distinguishable from the individual respondent's in *Middlebury*. In that case, the Court reduced disgorgement due to respondent's inability to pay, but based that reduction, at least in part, on the fact that his "financial statement indicates that his liabilities greatly exceed his assets," *id.* at 13, which is not the case for any of the Respondents, all who report positive net worth.

See SEC v. Razmilovic, 822 F.Supp.2d 234, 280 (E.D.N.Y. 2011). *aff'd in rel. part,* 783 F.3d 14 (2d Cir. 2013), *and cert den.*, 134 S.Ct. 1564 (U.S. 2014); *SEC v. Ramoil Mgmt., Ltd.,* No. 01 Civ. 9057 (SC), 2007 WL 3146943, at *13 (S.D.N.Y. Oct. 25, 2007) (civil penalties "fulfill a number of other [nonpunitive] purposes such as . . . deterrence, fostering public confidence in the securities system, and promoting stability in the securities market.") The securities laws provide three tiers of penalties, to be "determined by the court in light of the facts and circumstances." Under each tier, the Court is authorized to impose a penalty that is the greater of the defendant's "pecuniary gain" from the violation or the applicable tier amount. The penalty tiers for individuals for conduct that occurred from March 6, 2013 through November 2, 2015, are as follows:

> *First Tier:* $7,500 for an individual per violation;
>
> *Second tier:* $80,000 for an individual per violation that "involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement"; or
>
> *Third tier:* $160,000 for an individual per violation that "involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement" and "directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons."

Id.; See 17 C.F.R §§ 201.1001, Table I.

In determining the penalty amount, courts weigh the following factors: (1) the egregiousness of defendant's conduct; (2) the degree of defendant's *scienter;* (3) whether defendant's conduct created substantial losses or the risk of substantial losses to other persons; (4) whether defendant's conduct was isolated or recurrent; and (5) whether the penalty should be reduced due to defendant's demonstrated current and future financial condition. *SEC v. Haligiannis,* 470 F. Supp. 2d 373, 386 (S.D.N.Y. 2007).[10]

[10] A penalty is warranted even if a defendant claims that he cannot pay it because "claims of poverty cannot defeat the ... purposes of the securities laws." *SEC v. Inorganic Recycling Corp.*, 99 Civ. 10159, 2002 U.S. Dist. LEXIS 15817 *12 (S.D.N.Y. Aug. 25, 2002); *SEC v. Kane*, 2003 WL 1741293, at *4 (S.D.N.Y. 2003).

Here, Respondents' conduct was egregious. They each sold many unregistered securities to individuals for principal values of *several millions* of dollars each, and they earned *hundreds of thousands* of dollars in commissions, all without being registered to sell securities. Respondent Rose sold 70 Verto Notes to 37 investors, for a total principal value of $5,064,391, and he earned $297,260 in commissions. Order ¶ 24. Leeman sold 53 Verto Notes to 24 investors, for a total principal value of $4,227,540, and earned $243,435 in commissions. *Id.* Featherstone sold 25 Verto Notes to 8 investors, for a principal value of $2,370,455, and earned $120,760 in commissions. *Id.* Resondents' illegal conduct was not isolated conduct. To the contrary, as noted above, Respondents repeatedly violated the federal securities laws, continuously from 2013 through 2016. *Id.* ¶ 24.

Regarding their degree of *scienter*. Respondents acted, at the least, in reckless disregard of the regulatory requirement at issue – *i.e.*, that only licensed securities brokers sell securities. As the Order's findings established. Respondents knew that a broker license was required to sell securities, and knowingly assumed the risk that the Verto Notes were securities. Despite that awareness, however, Respondents did not consult their own attorney on the topic, including Mr. Shelmire, a lawyer they had engaged at the time (for other purposes). Vakiener Decl. Ex. E, Leeman Transcript, at 106:19-107:10, 108:10-23 (Respondents hired Shelmire to advise them regarding how to claim the collateral securing the Verto Notes in the event of default).
As early as November 2013, when Respondents began selling the Verto Notes, they expressed concerns to Schantz that the Verto Notes were securities. Order ¶ III.C.27. In a November 15, 2013 email to Schantz, Respondent Leeman stated that another potential broker had just informed Leeman that attorney Sherman "had recommended that [the potential broker] not participate" in the sale of Verto Notes, and that "[t]he issue appears to be [the lawyer, Sherman's] opinion that our

note is a security." *Id.*; *see* Vakiener Decl. Ex. F. The Respondents were also aware of Schantz's 2006 consent order issued by the New Jersey Bureau of Securities, which required Schantz to disgorge $7,000 in commissions he had earned selling similar nine-month promissory notes backed by insurance obligations. Order ¶ III.C.27. That consent is publicly available, on the New Jersey Consumer Affairs government website.[11]

And Respondents continued to harbor concerns that the Verto Notes might be securities, despite Schantz's statements to Respondents that they were not. On June 24, 2014—after Respondents already had been selling the notes for over seven months—Respondent Leeman emailed Schantz, copying Respondent Rose, that "In the SEC issue you had for selling Promissory Notes in 2001 as non-securities when the SEC claimed that they were securities, what was the difference between those and what we have? It looks like they were also 9 month notes." Order ¶ III.C.27. Although Schantz told Respondents that the Verto Notes were not securities, Respondents thus were aware of, and recklessly ignored, the risk that they were securities, and Respondents did so solely to personally profit by earning substantial commissions brokering Verto Note sales. Respondents' recklessness is further evidenced by Leeman's November 20, 2013 email, in response to his learning that Mr. Sherman was vetting Verto: "Sure hope it's all OK because I wrote up $75,000 today!" Vakiener Decl. Ex. G.

Furthermore, on August 5, 2014—after Respondents already had been selling the notes for nine months—Schantz sent Rose and Leeman a memorandum from Verto's counsel discussing whether the Verto Notes were securities. The memorandum, however, expressly refrains from providing a legal opinion, stating in relevant part: "[T]he law concerning whether notes having a

[11] *In the Matter of Clearing Services of America, Inc., et al.*, Consent Order as to William Schantz et al., New Jersey Bureau of Securities, (Jan. 18, 2006) *available at* http://www.njconsumeraffairs.gov/Actions/20060117_ClearingServicesofAmericaIncschantz.pdf

nine-month maturity date are deemed to be securities is complex and can be confusing. . .. I think that a regulator or court should find that the notes are exempt but, given the number of elements involved and the complex case rulings, providing a formal legal opinion on this point would not be feasible." Vakiener Decl. Ex. 1. Respondents never engaged their own counsel to receive independent advice on the topic.

Respondents' conduct also created a risk of substantial losses to investors who purchased the Verto Notes. As noted above, Respondents solicited investors by advertising the Verto Notes as low risk and as being 200% collateralized. Retirement Surety's website described the Verto Notes as "A Nine Month, Short-Term Investment with significantly higher returns than CDs or other safe money investments," and highlighted that the notes were "200% collateralized" by life settlement policies. Order ¶ III.C.18. Similarly, the website for Respondents' entity Crescendo touted the Verto Notes as a "Short Term Investment with Superior Returns and Minimal Risk," explaining, it was a low risk investment and "not a speculative investment influenced by market performance or the economy but rather an investment backed by 200% collateral with a known value." *Id.* ¶ III.C.19. Investors in the Verto Notes did in fact incur substantial losses. *See infra* fn. 11.

Respondents also held themselves out as "financial advisors," *id.* ¶ III.C.25 – without satisfying the qualifications of registered securities brokers, *id.* ¶ III.C.29. They expressly held themselves out as "financial advisors," which carries with it the imprimatur that Respondents were licensed and qualified to evaluate the risk of an investment and recommend only suitable products to customers. According to FINRA Rule 2111, brokers have a duty to make suitable investments for their customers, and according to Supplemental Material .05, this includes conducting "reasonable due diligence" that provides the broker with "an understanding of the potential risks and rewards associated with the recommended security or strategy" and "[t]he lack of such an understanding when recommending a security or strategy violates the suitability rule." Rather than

conduct the diligence required of a registered broker (to assess the validity of the statements made by the issuer), Respondents simply repeated those statements to investors' peril. Indeed, Leeman acknowledged that he was aware of the greater level of fiduciary responsibility securities brokers owe their customers, but claimed he did not believe that this level of responsibility applied to his relationship with investors.

> Q: Isn't it fair to say that you were acting as brokers for Verto in selling the note?
>
> A: Well, again, I don't know the meaning of the word "brokers." I would not characterize it in the same sense that a licensed security agent is a broker.
>
> Q: And why is that?
>
> A: Well, I'm not a security agent, so I can't really say entirely, but I think there's probably a greater level of fiduciary responsibility if you have a securities license. We were finders.

Vakiener Decl. Ex. E, Leeman Transcript, at 112:2-11.

And the brochure provided by Respondents to investors stated that Respondents undertook to provide access to a report that monitored the 200% collateral balance versus their investment dollars,[12] when in fact, as Respondent Rose testified. Respondents were merely relying on the statements made by the issuer.

> Q: If you turn your attention, again, to that last sentence of the answer, it reads: A quarterly activity report on the collateral balance versus investment dollars will be available from your advisor. Who is an advisor that you are referring to there?
>
> A: That would be whoever the agent was that, you know, sold them that policy. It would be one of the Retirement Surety guys.
>
> Q: Including yourself?
>
> A: Yes. Yes.

[12] *See* Vakiener Decl. Ex. J (second page, second bullet under "The Safeguards" states "Life Settlement assets will have a minimum ratio of 2:1 of 200% (loan to fact value) in Life Settlements acquired and traded"); *id.* (last page, last sentence: "A quarterly actively report on the collateral balance vs. investment dollars will be available from your advisor").

Q: Mr. Rose, are you an advisor?

A: Maybe "advisor" is not the correct term from an SEC perspective, no, I have an insurance license.

Vakiener Decl. Ex. D, Rose Transcript, at 89:16-90:13.

Q: Mr. Rose, just to be clear. Was it your understanding that any time during the course of the note program, Verto held policies with a face amount that was at least 200 percent of the outstanding loan amounts?

A: Correct. that is my understanding.

Q: Did Mr. Schantz ever tell you that?

A: I can't say he actually ever told me that. It was what was discussed is that -- go ahead.

Q: Where did the information come from that is in this bullet point?

A: From the information booklet in the subscription document.

Id. Ex. D. at 76:1-13.

Indeed, the Commission brought a separate, related settled action against Schantz and Verto in federal district court alleging fraudulent misrepresentations made by them in the sale of the Verto Notes – including the claim made by the Respondents to investors that the securities were 200% collateralized when in fact the collateralization did not meet this threshold. Schantz settled that case, agreeing to a payment plan designed to repay investors.[13] The Verto Note investors—of which, 32 out of 36 were clients of Respondents—have not yet been paid their share of the delinquent amount. Vakiener Decl. ¶ 13. Defendants Schantz and Verto Capital

[13] On May 4, 2017, the Securities and Exchange Commission filed a complaint against New Jersey-based Verto Capital Management LLC and its CEO, William R. Schantz III, of Moorestown, New Jersey. *SEC v. William R. Schantz III and Verto Capital Management LLC*, Civil Action No. 17-cv-03115 (D.N.J). Under the terms of the Amended Judgment, the defendants agreed to pay more than $4.6 million to settle charges that they used new investor money to repay earlier investors in Ponzi-like fashion, tapped investor funds for the CEO's personal use, and made misrepresentations to investors about the safety of the notes and the amount of collateral underlying them. A fair fund was created to return money collected to harmed investors, and defendants agreed to a payment plan.

Management LLC are over $1.5 million delinquent on their obligations in the payment plan under the settled judgment. *Id.* The Division will seek to add any monetary remedies recovered through this proceeding to the Fair Fund for distribution to Verto Note investors, such as was done for the settlements entered into with Randy Wallis and Ronald Wills for selling the Verto Notes. Vakiener Decl. Exs. K & L.

As described above, each violation warrants an independent penalty. Courts, however, have used several different means to calculate the penalty based on *each* securities law violation. Some courts have calculated the penalty by multiplying the statutory amount by the number of violative actions. *See, e.g., SEC v. Pentagon Capital Mgmt., PLC*, 725 F.3d 279, 288 n. 7 (2d Cir. 2013) ("we find no error in the district court's methodology for calculating the maximum penalty be counting each trade as a separate violation"); *SEC v. Coates*, 137 F. Supp. 2d 413,430 (S.D.N.Y. 2001) (multiplying the penalty by the number of violations). Here, Rose sold 70 Verto Notes. Leeman sold 53 Verto Notes, and Featherstone sold 25 Verto Notes, and each note sale violated both Securities Act Section 5 (as an unregistered security), and Exchange Act Section 15(a)(1) (as a sale of a security by an unregistered broker).

Another methodology for calculating the penalty would be to multiply the statutory penalty by the number of securities laws the Respondents violated. *See, e.g., SEC v. Shehyn,* No. 04-cv-2003(LAP), 2010 WL 3290977, at *8 (Aug. 9, 2010) (multiplying the third-tier penalty by five to reflect defendant's violation of five securities laws). Other courts have multiplied the statutory penalty by the number of victims.[14] Alternatively, courts penalize defendants based on the amount

[14] *See, e.g., SEC v. Glantz*, No. 94-cv-5737, 2009 WL 3335340, at *6 (S.D.N.Y. Oct. 13, 2009); *SEC v. Milan Capital Group, Inc.*, No. 00-cv-0108, 2001 WL 921169, at *3 (S.D.N.Y. 2001) (similar, resulting in a $10 million penalty); *SEC v. Kenton Capital Ltd.*, 69 F. Supp. 2d 1, 17 & n.15 (D.D.C. 1998) ($1.2 million penalty calculated by "multiplying the maximum third tier penalty ... by the number of investors who actually sent money to [defendant]").

of their unlawful gain. Whatever methodology the Court utilizes, the conduct of Rose, Leeman, and Featherstone warrants the imposition of maximum civil money penalties.

CONCLUSION

The Division respectfully requests that the Court grant its Motion for Summary Disposition and order that Thomas Rose pay disgorgement of $297,360.00, prejudgment interest of $31,845.54 and the maximum civil money penalty; that David Leeman pay disgorgement of $243,435.00, prejudgment interest of $26,070.48 and the maximum penalty; and that David Featherstone pay disgorgement of $120,760.00, prejudgment interest of $12,932.72 and the maximum penalty.

Respectfully submitted.

Jennifer K. Vakiener
Attorney for the Division of Enforcement
Securities and Exchange Commission
200 Vesey Street, Suite 400
New York, New York 10281
vakienerj@sec.gov
212-336-5145

April 19, 2019

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on April 19, 2019, a true and correct copy of the foregoing was sent in the manner indicated below upon the following:

VIA ELECTRONIC MAIL
Honorable James E. Grimes
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
Via email to alj@sec.gov (courtesy copy)

VIA UPS
Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

VIA ELECTRONIC MAIL
Jeffrey Ansley
Toy (TJ) Hales
Bell Nunnally
2323 Ross Ave. Suite 1900
Dallas, TX 75201
Counsel for Respondents Retirement Surety, LLC, Crescendo Financial LLC, Thomas Rose, David Leeman and David Featherstone
jansley@bellnunnally.com
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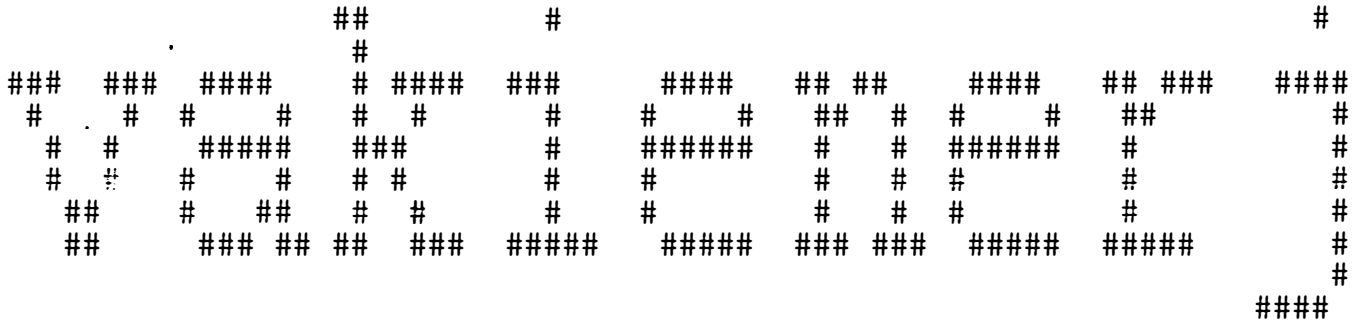
Jennifer K. Vakiener



Job : 212
Date: 4/19/2019
Time: 8:29:41 PM

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18061

In the Matter of

RETIREMENT SURETY LLC, CRESCENDO FINANCIAL LLC, THOMAS ROSE, DAVID LEEMAN, AND DAVID FEATHERSTONE,

Respondents.

DECLARATION OF JENNIFER K. VAKIENER

I, Jennifer K. Vakiener, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over 18 years of age and am employed as Senior Counsel in the Enforcement Division of the Securities and Exchange Commission, at its New York Regional Office. I submit this declaration on personal knowledge in support of the Division's motion for summary disposition against Respondents Thomas Rose, David Leeman, and David Featherstone.

2. Attached hereto as Exhibit A is the Division's Prejudgment Interest calculation for Respondent Rose.

3. Attached hereto as Exhibit B is the Division's Prejudgment Interest calculation for Respondent Leeman.

4. Attached hereto as Exhibit C is the Division's Prejudgment Interest calculation for Respondent Featherstone.

5. Attached hereto as Exhibit D are true and correct copies of selected pages from the December 17, 2015 Testimony of Respondent Rose.

6. Attached hereto as Exhibit E are true and correct copies of selected pages from the March 11, 2016 Testimony of Respondent David Leeman.

7. Attached hereto as Exhibit F is a true and correct copy of an email dated November 15, 2013 from Verto's CEO to David Leeman.

8. Attached hereto as Exhibit G is a true and correct copy of an email dated November 20, 2013 from David Leeman to an attorney at Locke Lord that represented a potential broker.

9. Attached hereto as Exhibit H is a true and correct copy of an email dated November 21, 2013 from Tom Rose to David Leeman.

10. Attached hereto as Exhibit I is a true and correct copy of an email dated August 5, 2014 from William Schantz to Tom Rose and David Leeman.

11. Attached hereto as Exhibit J is a true and correct copy of a brochure that Respondents provided to investors.

12. Attached hereto as Exhibit K is a true and correct copy of the Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order in the Matter of Randal Wallis dated July 6, 2017.

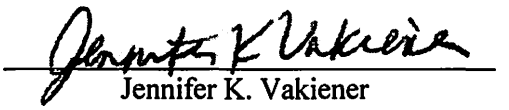
13. Attached hereto as Exhibit L is a true and correct copy of Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order in the Matter of Ronald Howard Wills dated July 6, 2017.

14. The defendants in *SEC v. William R. Schantz III and Verto Capital Management LLC*, Civil Action No. 17-cv-03115 (D.N.J) have entered into a settled judgment to pay approximately $4.6 million and agreed to make scheduled payments to the SEC so that 36 Verto Note investors (listed with names redacted at Exhibit B to the Amended Judgment dated

February 27, 2018) could be paid through a fair fund. These 36 investors were owed principal of approximately $3.9 million and interest of nearly $700,000. Defendants' debt to the Commission is delinquent. As of April 12, 2019, Defendants owe approximately $1.5 million in disgorgement and applicable interest, which continues to accrue daily, and which remains owing to the 36 investors. 32 of the 36 investors who were to be paid by the terms of the settlement are clients of Respondents Rose, Leeman, and Featherstone.

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

Dated: April 19, 2019
New York, NY



Jennifer K. Vakiener

EXHIBIT A

U.S. Securities and Exchange Commission
Prejudgment Interest Report

Rose's PJI

Quarter Range	Annual Rate	Period Rate	Quarter Interest	Principal+Interest
Violation Amount				**$297,360.00**
01/01/2017-03/31/2017	4.00%	0.99%	$2,932.87	$300,292.87
04/01/2017-06/30/2017	4.00%	1%	$2,994.70	$303,287.57
07/01/2017-09/30/2017	4.00%	1.01%	$3,057.80	$306,345.37
10/01/2017-12/31/2017	4.00%	1.01%	$3,088.63	$309,434.00
01/01/2018-03/31/2018	4.00%	0.99%	$3,051.95	$312,485.95
04/01/2018-06/30/2018	5.00%	1.25%	$3,895.37	$316,381.32
07/01/2018-09/30/2018	5.00%	1.26%	$3,987.27	$320,368.59
10/01/2018-12/31/2018	5.00%	1.26%	$4,037.52	$324,406.11
01/01/2019-03/31/2019	6.00%	1.48%	$4,799.43	$329,205.54
Prejudgment Violation Range			**Quarter Interest Total**	**Prejudgment Total**
01/01/2017-03/31/2019			**$31,845.54**	**$329,205.54**

EXHIBIT B

U.S. Securities and Exchange Commission
Prejudgment Interest Report

Leeman's PJI

Quarter Range	Annual Rate	Period Rate	Quarter Interest	Principal+Interest
Violation Amount				**$243,435.00**
01/01/2017-03/31/2017	4.00%	0.99%	$2,401.00	$245,836.00
04/01/2017-06/30/2017	4.00%	1%	$2,451.62	$248,287.62
07/01/2017-09/30/2017	4.00%	1.01%	$2,503.28	$250,790.90
10/01/2017-12/31/2017	4.00%	1.01%	$2,528.52	$253,319.42
01/01/2018-03/31/2018	4.00%	0.99%	$2,498.49	$255,817.91
04/01/2018-06/30/2018	5.00%	1.25%	$3,188.96	$259,006.87
07/01/2018-09/30/2018	5.00%	1.26%	$3,264.20	$262,271.07
10/01/2018-12/31/2018	5.00%	1.26%	$3,305.33	$265,576.40
01/01/2019-03/31/2019	6.00%	1.48%	$3,929.08	$269,505.48

Prejudgment Violation Range	Quarter Interest Total	Prejudgment Total
01/01/2017-03/31/2019	**$26,070.48**	**$269,505.48**

EXHIBIT C

U.S. Securities and Exchange Commission
Prejudgment Interest Report

Featherstone's PJI

Quarter Range	Annual Rate	Period Rate	Quarter Interest	Principal+Interest
Violation Amount				**$120,760.00**
01/01/2017-03/31/2017	4.00%	0.99%	$1,191.06	$121,951.06
04/01/2017-06/30/2017	4.00%	1%	$1,216.17	$123,167.23
07/01/2017-09/30/2017	4.00%	1.01%	$1,241.80	$124,409.03
10/01/2017-12/31/2017	4.00%	1.01%	$1,254.32	$125,663.35
01/01/2018-03/31/2018	4.00%	0.99%	$1,239.42	$126,902.77
04/01/2018-06/30/2018	5.00%	1.25%	$1,581.94	$128,484.71
07/01/2018-09/30/2018	5.00%	1.26%	$1,619.26	$130,103.97
10/01/2018-12/31/2018	5.00%	1.26%	$1,639.67	$131,743.64
01/01/2019-03/31/2019	6.00%	1.48%	$1,949.08	$133,692.72
Prejudgment Violation Range			**Quarter Interest Total**	**Prejudgment Total**
01/01/2017-03/31/2019			**$12,932.72**	**$133,692.72**

EXHIBIT D

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. NY-09269-A

VERTO CAPITAL MANAGEMENT, LLC)

WITNESS: Thomas Edward Rose

PAGES: 1 through 236

PLACE: Securities and Exchange Commission

801 Cherry Street, 19th Floor

Fort Worth, TX 76102

DATE: Thursday, December 17, 2015

The above entitled matter came on for hearing, pursuant to notice, at 9:50 a.m. (CST); 10:50 a.m. (EST).

Diversified Reporting Services, Inc.

(202) 467 9200

APPEARANCES:

On behalf of the Securities and Exchange Commission
(Via Video Conference):

VINCENT T. HULL, ESQ.
JENNIFER VAKIENER, ESQ.
JACK KAUFMAN, ESQ.
STEVEN G. RAWLINGS, ESQ.
Securities and Exchange Commission
Division of Enforcement
200 Vesey Street
New York, NY 10128
(212) 336-0488

On behalf of the Verto Capital Management and the
Witness:

JEFFREY J. ANSLEY, ESQ.
Bell Nunnally & Martin
3232 McKinney Avenue, Suite 1400
Dallas, TX 75204
(214) 740-1408

Q Mr. Rose, just to be clear. Was it your understanding that any time during the course of the note program, Verto held policies with a face amount that was at least 200 percent of the outstanding loan amounts?

A Correct, that is my understanding.

Q Did Mr. Schantz ever tell you that?

A I can't say he actually ever told me that. It was what was discussed is that -- go ahead.

Q Where did the information come from that is in this bullet point?

A From the information booklet in the subscription document.

BY MR. HULL:

Q Did Mr. Schantz ever inform you of a change to the ratio of life settlements acquired and traded to the life settlement assets?

A No.

Q In other words, did Mr. Schantz ever notify you of a change to that 200 percent loan to face value?

A No, did not.

Q To your knowledge that 200 percent loan to face value still exists?

A Correct, yeah, 200 percent was face value.

BY MS. VAKIENER:

Where did you get the source of that information?

A That actually came from my partner writing that section. But, once again, it was the fact that he had been in business. We did our due diligence as best as we could on Bill Schantz. We actually had a Texas Ranger do some research on the side and, you know, everything came back with no criminal records.

There was, I think I mentioned in my original testimony with you, the fact that he had an issue with the SEC and that, I don't remember when, back in 2000, I think, somewhere in that time frame, and he personally paid his investors off, even though the company that he was representing turned out to be fraudulent.

Q Did Mr. Schantz ever provide you with any documents that showed that his business was profitable?

A No.

BY MR. HULL:

Q He never provided you with, for instance, financial statements for Verto Capital Management?

A No, we never got any of those. The only way we knew things were -- we assumed things were working is that every client was paid on time.

Q If you turn your attention, again, to that

last sentence of the answer, it reads: A quarterly activity report on the collateral balance versus investment dollars will be available from your advisor.

Who is an advisor that you are referring to there?

A That would be whoever the agent was that, you know, sold them that policy. It would be one of the Retirement Surety guys.

Q Including yourself?

A Yes. Yes.

Q Mr. Rose, are you an advisor?

A Maybe "advisor" is not the correct term from an SEC perspective, no, I have an insurance license.

Q So from your perspective, does having an insurance license make you an advisor?

A No. But I also did not think this was a security because of some exemptions with a nine month note not necessarily being a security.

MR. HULL: Why don't we break for lunch. It is 1:26 p.m. Eastern Standard Time. We are off the record.

(Whereupon, at 1:26 p.m., a luncheon recess was taken.)

A F T E R N O O N S E S S I O N

MR. HULL: Okay. Why don't we go back on the

interested in, you know, offering a product of his. I believe that person probably got our name through a list of LPI licensees, people that were selling LPI. I don't know that for sure. It was basically a cold call into Dave. They talked. That's how we got introduced.

Q What are LPI's?

A LPI? Life Partners, Inc.

Q And so what was your relationship with Life Partners, Inc., what would that be called?

A I don't remember what it was actually called. I think it is a licensee, agent, advisor. I don't remember exactly what the title was at the time.

Q And this was in around 2013?

A Well, when I started with Life Partners, it was probably 2010 or 2011, somewhere in that area.

Q And when did Mr. Schantz reach out to Dave Leeman?

A I don't know for sure. It was probably 2012. I don't remember if it was the first half or the second half, but 2012.

Q In other words, it was before the Verto note program had begun?

A Yes, it was before Verto.

Q When did your first --

A Hold on, let me stop this. Sorry about that.

Q No worries. When did your first communications with Mr. Schantz begin?

A When did they begin? Late 2012, early 2013, I think, somewhere in that time frame.

Q Also before -- that was before the Verto note program began?

A Correct. Yeah, there was another offering that we were not interested in pursuing.

Q And so how did your conversations with Mr. Schantz about the Verto note program develop? Did he plan to start the program kind of hand in hand with Crescendo and Retirement Surety?

A No, it was -- yeah, since we weren't, you know, interested in one of his earlier offerings, he had developed -- and one of the problems was it was a longer duration and we just weren't interested in that product.

He came back to us with a nine month note product and that caught our eyes, because we thought it was not a security. We were advised by him and his attorneys that it wasn't a security because of the exemptions. And so we weren't securities licensed, so that caught our attention.

BY MR. KAUFMAN:

Q You say his attorneys advised you that the

nine month note was not a security?

MR. ANSLEY: Wait. That is privileged. We may, as I talked to Vincent the other day, we may decide to waive privilege later, but for now, I want to stay away from his attorney/client communications.

BY MR. KAUFMAN:

Q Okay. So just to be clear, the firm we're talking about, is that Eckert?

A Yes.

Q Okay. And did you consider Eckert to be your law firm at the time when whatever advise was given was given?

A Not necessarily our law firm. We weren't represented by him, but when we did due diligence outside of the law firm and we did research on the Internet about what is security, what is exemptions, and nine month note, an exemption. There is an SEC document that says there is exemptions to a nine month note being a security.

We found other things out on the Internet from different law firms where they publish things on the Internet, saying, that nine month notes may or may not be a security if they follow different criteria. And we felt that it wasn't a security.

Q Without telling me about any attorney/client

communications, other than Eckert did you consult any other attorney about that issue?

A Yeah, I did talk to David Shelmire, which is an attorney here in Dallas.

Q Could you spell Shelmire for us.

A Yes. I believe it is S-h-e-l-m-i-r-e.

BY MR. HULL:

Q And is he with a law firm?

A No, he's independent.

BY MR. KAUFMAN:

Q You said when you did your own independent research, I think you just said that you saw that there were certain factors that convinced you whether something is a security; is that right?

A Correct.

Q What were those factors that you saw?

A One, the fact that it is nine months; two, it said even if it was longer than nine months, as long as the note is backed by assets of a company, then it is not a security.

Q Where did you see that?

A I think there's an SEC pamphlet that says that. There's also a document from a law firm in Oregon that we found, I can't remember the name of that law firm, that, you know, had that out there on the

Internet as well. I think, if I remember correctly, I looked at some different SEC -- just doing Google searches, right, and trying to find SEC documents. We're obviously not securities licensed, so we wanted to make sure we weren't, you know, doing anything wrong.

Q Was all of your research on the Internet or you mentioned a pamphlet, was it all on the Internet?

A Well, as I said the Internet and then talking to Shelmire and, you know, other people, right.

Q Okay. But you mentioned a pamphlet. I'm just wondering if you've got some kind of hard copy document that talked about this issue?

A I think there is a pamphlet. I've got it. Do you have it in -- I don't know whether you have got it. It is an SEC document that says, you know, before you invest in promissory notes, you know, if they are less than nine months, they are, you know, they may not be a security. I think they used the word "may" in the SEC pamphlet. I don't know. It is a consumer pamphlet.

BY MR. HULL:

Q Is David Shelmire a securities attorney?

A Say that again. Shelmire? Yes, he is a securities attorney.

Q And you referenced a call in, I believe,

A Was there a what?
Q Was there an attachment?
A No, no attachment, it was just an email.
BY MR. RAWLINGS:
Q Mr. Rose, this is Steve Rawlings. When was the last time you've seen that email?
A Recently. I turned it all in, so, you know, I forwarded it as part of all of the discovery information.
Q Okay. So within the last few weeks you personally came across that email, saw it and, as far as you understand, conveyed it to your counsel; is that correct?
A That's correct.
BY MR. KAUFMAN:
Q You testified previously that when you first got involved or when your company first got involved with the Verto notes, selling the Verto notes, I think you said you had a conversation with someone from Eckert/Seamans; is that right?
A From Eckert/Seamans? Yes, uh-huh.
Q And who was that?
A That would be John -- however you pronounce his last name.
BY MR. KAUFMAN:

Q Pauciulo? It sounds like the person, correct?

A Okay.

Q Who was on that phone call?

A Myself, John, Bill Schantz, and Dave Leeman.

Q Okay. Could you just -- and this was before you had sold any Verto notes or helped to sell any Verto notes?

A You know, there were a couple of phone call conversations with John. I don't know, I think there was probably some before. I know there was some before and some after. We just wanted to ensure that this was not, you know, that it was a nine month note, that it would not be considered a security.

Q Okay. When you say after, you mean, after you started selling the notes?

A Correct. Probably --

Q How long after?

A A month. Okay.

Q Okay. Could you tell us -- and were the same people on both of these phone calls?

A Yes.

Q Can you tell us in words or substance what you said and what the Eckert attorney said or anyone else said on these calls?

A I mean, I can't remember exactly, but it was always around the fact that we just wanted to make sure -- "we" being Dave Leeman and I, wanted to make sure that what we were offering was not a security, that it was a nine month note, and that, you know, it was considered a promissory note that had exemptions and that we were okay in selling it.

Q Did anyone on the call tell you that this nine month note was not a security for the purposes of the Federal Securities Laws?

A No. I'm sorry. I thought you said it was a security. That it was not a security?

Q Yes.

A Yes. The answer is yes, we were told that it was not a security, that it was -- there is gray area in nine month notes, I guess, but that the note has been structured as such as one of the most recent opinions, if I remember correctly, from the Supreme Court that this type of note was not a security.

Q And who said that? Who made that representation in the phone call?

A That would have been -- well, I know that was in the email, so that probably would have been John, yeah, John. We'll just refer to him as John.

BY MR. RAWLINGS:

Q For the record the John you've been referring to as John Pauciulo, P-a-u-c-i-u-l-o. Correct, Mr. Rose?

A Correct.

BY MR. HULL:

Q Now, if you turn your attention to this same slide, the bottom portion of it in the gray bar around the bottom reads: Not for general solicitation, for accredited and sophisticated investors only.

Why did you insert that language into the slide show, Mr. Rose?

A Because it is not for general solicitation to people that aren't our clients, was my understanding, and it should be for accredited or sophisticated investors only.

Q And what was your understanding based upon?

A The Verto note information booklet and the subscription agreement and conversations.

BY MR. KAUFMAN:

Q Did you have any understanding as to why it was only being sold to accredited investors or that was what was being said?

A Well, other than the fact that these people should be in the position that they are sophisticated enough and they have assets enough that they could

EXHIBIT E

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. NY-09269-A

VERTO CAPITAL MANAGEMENT, LLC)

WITNESS: David Leeman

PAGES: 1 through 221

PLACE: Securities and Exchange Commission

801 Cherry Street, 19th Floor

Fort Worth, TX 76102

DATE: Friday, March 11, 2016

The above entitled matter came on for hearing, pursuant to notice, at 8:47 a.m. (CST); 9:47 a.m. (EST).

Diversified Reporting Services, Inc.

(202) 467 9200

APPEARANCES:

On behalf of the Securities and Exchange Commission
(Via Video Conference):

VINCENT T. HULL, ESQ.
JENNIFER VAKIENER, ESQ.
JACK KAUFMAN, ESQ.
STEVEN G. RAWLINGS, ESQ.
Securities and Exchange Commission
Division of Enforcement
200 Vesey Street
New York, NY 10128
(212) 336-0488

On behalf of the Verto Capital Management and the
Witness:

GREGORY D. KELMINSON, ESQ.
Bell Nunnally & Martin
3232 McKinney Avenue, Suite 1400
Dallas, TX 75204
(214) 740-1494

Also Present:

Adam Dwyer, SEC Intern

What is the big win?

A Well, that we've been given another testimony or help in offering this potentially to other agents, such as ourselves.

BY MR. KAUFMAN:

Q As of this date, November 21st, 2013, you hadn't gotten any assurance, am I correct, that the Verto Notes are not securities?

A Not other than from Mr. Pauciulo. We hadn't reached out to this attorney, Locke Lord, we didn't know him.

Q Okay. I just didn't hear your response. As of this date, when you sent this email, you hadn't yet had assurance that these were not securities, correct?

A We had to our satisfaction, but this was yet another person potentially being involved, who needed his own satisfaction through his own counsel.

Q As of November 21st, 2013, how had you satisfied yourselves that the notes were not securities under the Securities Act?

A Based on, first of all, the position of Bill's attorney from a very large and reputable law firm in Philadelphia, based on our own study of what constituted a security, documents from both the SEC that defined the exemptions, that we felt this note

included, based on our conversation with a Dallas attorney that we had met with.

And so we were satisfied, but we couldn't speak for somebody in another state who had their own attorney.

Q Let me try to break that down, because you said a lot of things there. At this point, as of November 21st, 2013, had you already received in some way, either directly or indirectly, what you believed was Mr. Pauciulo's view on this matter?

A Yes, we had.

Q How had you received it?

A As I said before, I can't recall whether we had an actual phone conversation or not, we may have, and we had email exchange, but most of all, we had the testimony of Mr. Schantz, who we believed would have never engaged in selling this if his attorney had said you better not, it is a security. He wouldn't do that.

Q You mentioned an attorney in Dallas, Texas. Who is that?

A His name is David Shelmiere and we primarily went to him. I will tell you now --

MR. KELMINSON: I don't want you to get into details about what you talked about.

THE WITNESS: Okay. Can I tell him why we

went to him?

MR. KELMINSON: Yes, that's fine.

THE WITNESS: We went to him to kind of prepare ourselves that in the worst case scenario, a failure of Verto, that we had somebody kind of prequalified to represent us and our clients to claim the collateral. And Mr. Shelmiere agreed to be that person after reading everything.

And so in the conversations with him, we had comfort in this whole process.

BY MR. KAUFMAN:

Q Well, I mean, it is not clear to me whether you are asserting privilege or not here, so I mean, I'm not really sure what you are saying.

Are you saying -- and if you are asserting privilege, go ahead -- but are you saying that you got legal advice from Mr. Shelmiere prior to this time, prior to November 21st, 2013, on this issue regarding whether the Verto Notes were securities?

MR. KELMINSON: You can answer that.

A Yes.

BY MR. KAUFMAN:

Q What did he say?

MR. KELMINSON: We're going to assert privilege on the substance of any communications with

David Shelmiere on that topic.

MR. KAUFMAN: Okay.

BY MS. VAKIENER:

Q Sorry. When did you retain Mr. Shelmiere?

A You know, I'm sorry, I cannot tell you. I don't have those documents with me.

Q Was it before November 21st, 2013?

A Yes.

BY MR. HULL:

Q What prompted you to reach out to David Shelmiere?

A May I say common sense.

Q Is there something that triggered you going out to seek Mr. Shelmiere's advice?

A Simply that we wanted to give peace of mind to investors that if there ever came the unlikely event that collateral needed to be claimed, we were prepared to help them and that we had an attorney who said this is valid, this is a good legal offering of collateral claiming.

MR. KELMINSON: And I don't want you to get into details about what you and David talked about.

THE WITNESS: Okay.

BY MR. KAUFMAN:

Q Let me just ask you. To your knowledge did

Mr. Shelmiere have any background in securities laws?

A I can't say.

BY MR. HULL:

Q You mentioned a couple of other things in your previous response. You mentioned that you conducted your own study, which included looking at SEC materials that defined certain exemptions; was that right?

A Yes, sir.

Q Mr. Leeman, how did you go about conducting that search for SEC materials?

A Either online, I would say primarily online. There's more than a little information that can be found with a search online, both from law firms throughout the country, as well as SEC documents and definitions.

Q Did you talk to Mr. Rose about what you had found out?

A Oh, certainly.

Q To your knowledge did he conduct his own research?

A Yes.

Q Did you ever consider that Mr. Schantz' interest in terms of whether the Nine Month Notes were securities, did you ever consider whether Mr. Schantz'

interest might differ from yours?

A No.

Q To your knowledge, who besides you, Mr. Rose, Retirement Surety and Crescendo, who else was selling the Nine Month Verto Notes?

A I cannot say. I do not know.

Q To your knowledge did Mr. Schantz sell any of the Nine Month Verto Notes?

A I do not know.

Q Mr. Leeman, you are a licensed insurance broker?

A Correct.

Q Was it your belief that the Nine Month Verto Notes were an insurance product?

A No, sir.

Q How would you characterize the Nine Month Verto Notes then?

A As an alternative investment.

Q As an alternative to what?

A To securities that are commonly sold, such as stocks and bonds, mutual funds.

Q And for you to sell those alternatives that you have just described, would you need a license?

A It depends. Some of them certainly, but we felt this had the exemptions that are defined to our

mind very clearly.

Q Did you consider Retirement Surety to be an agent of Verto Capital?

A That phrase would not have entered my mind, no.

Q Did you consider Retirement Surety to be a representative of Verto?

A I would need to understand the definition of the term "representative." Loosely? Yes. Legally? No.

Q How would you describe your relationship, Retirement Surety's relationship to Verto Capital Management?

A We were a marketing arm, finders. The commitment was not with us. We were only providing people with whom -- who would make a commitment with Verto.

Q In other words, the commitment was between Verto and investors?

A Correct.

BY MR. KAUFMAN:

Q And you received a commission when that sale occurred?

A Or a finder's fee.

Q Okay. And how much was that fee?

A Over all it was 7 percent.

Q Isn't it fair to say that you were acting as brokers for Verto in selling the note?

A Well, again, I don't know the meaning of the word "brokers." I would not characterize it in the same sense that a licensed security agent is a broker.

Q And why is that?

A Well, I'm not a security agent, so I can't really say entirely, but I think there's probably a greater level of fiduciary responsibility if you have a securities license. We were finders.

BY MR. HULL:

Q Mr. Leeman, you are an insurance broker, correct?

A You know, they never used the word "broker."

Q You are an insurance agent?

A That would be accurate.

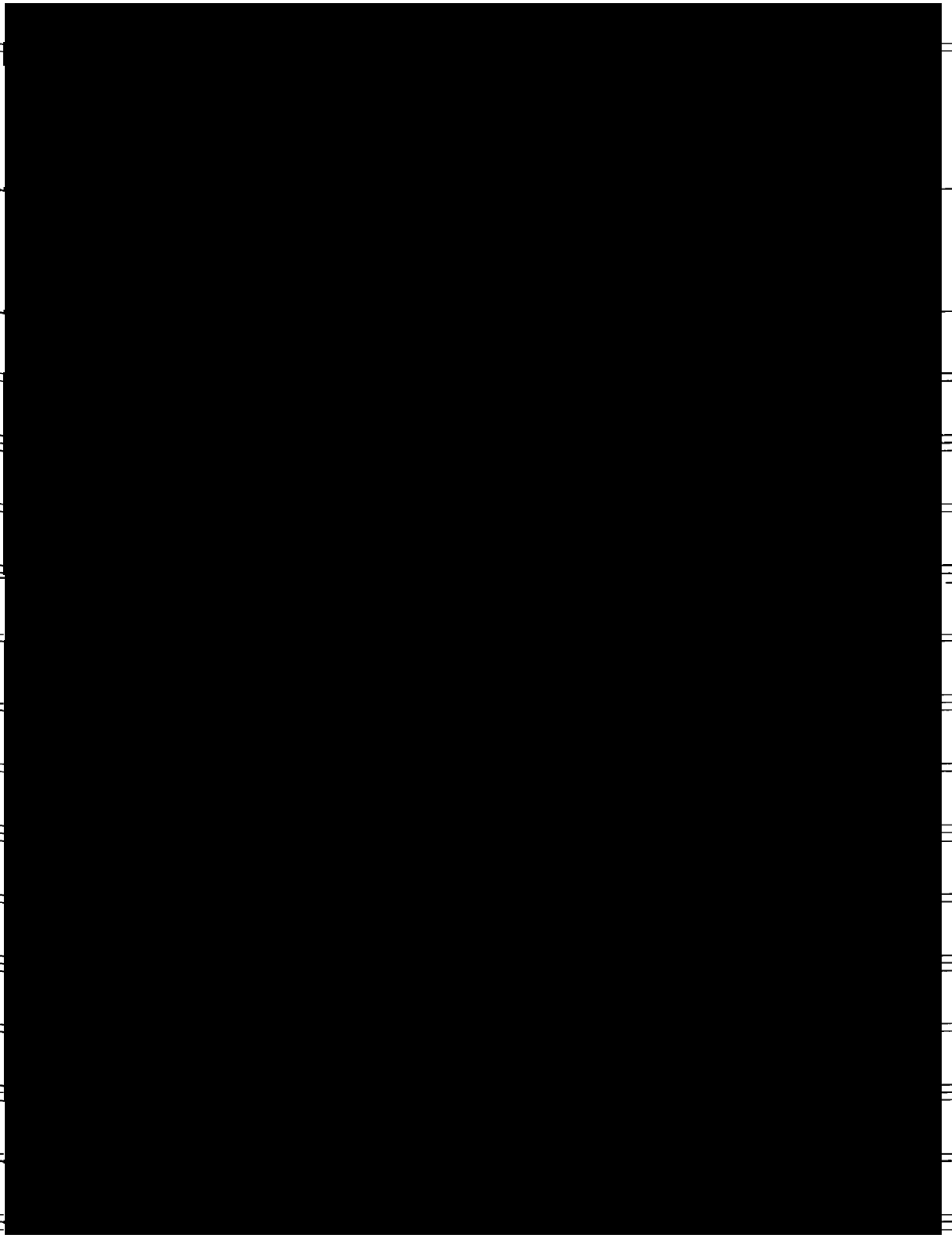
Q When you sell insurance to eventual insurance holders, how do you get paid?

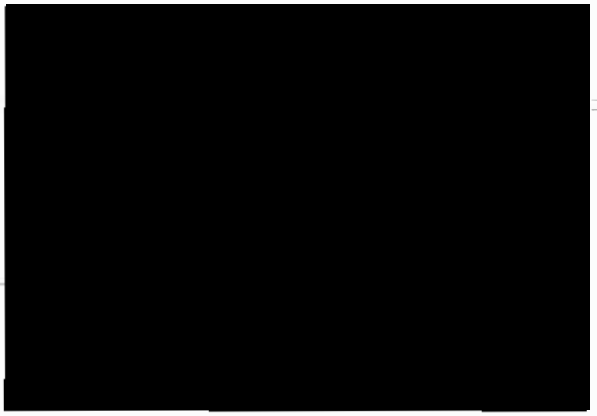
A They provide us a commission, insurance company does.

Q And who pays that?

A It doesn't come out of the client's investment, as does security people, who get a commission out of an investor's money. To me there is

EXHIBIT F





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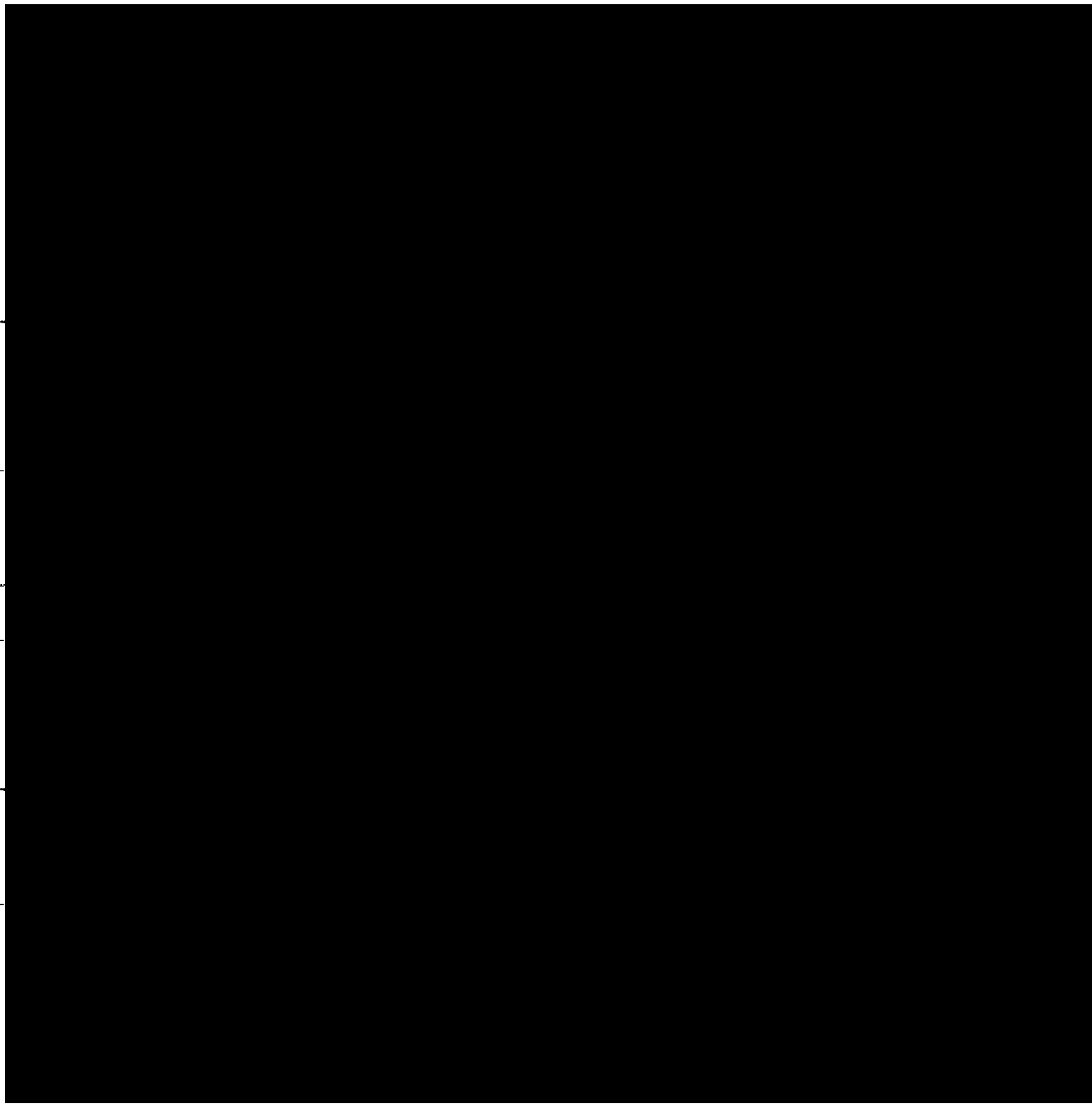

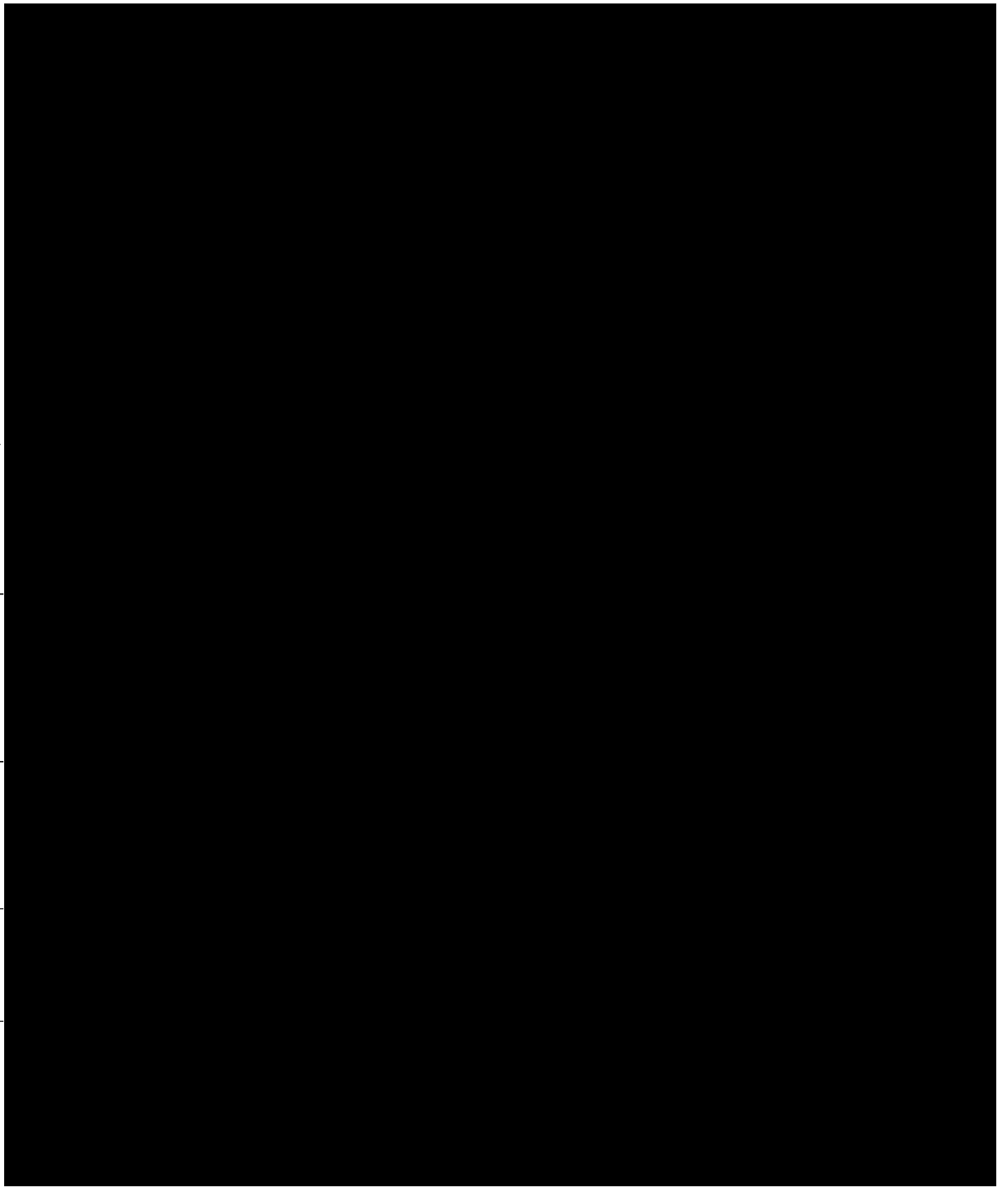

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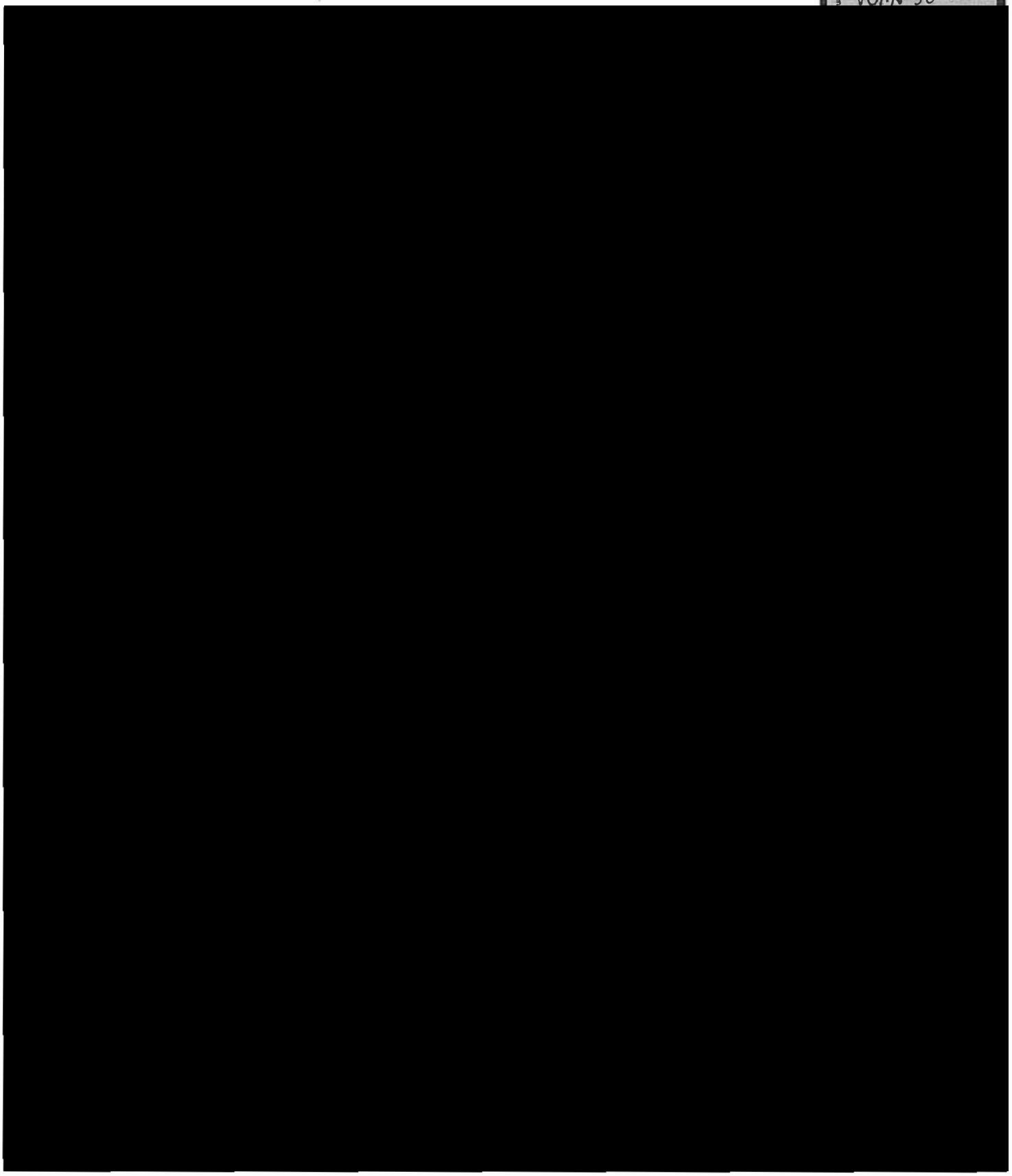
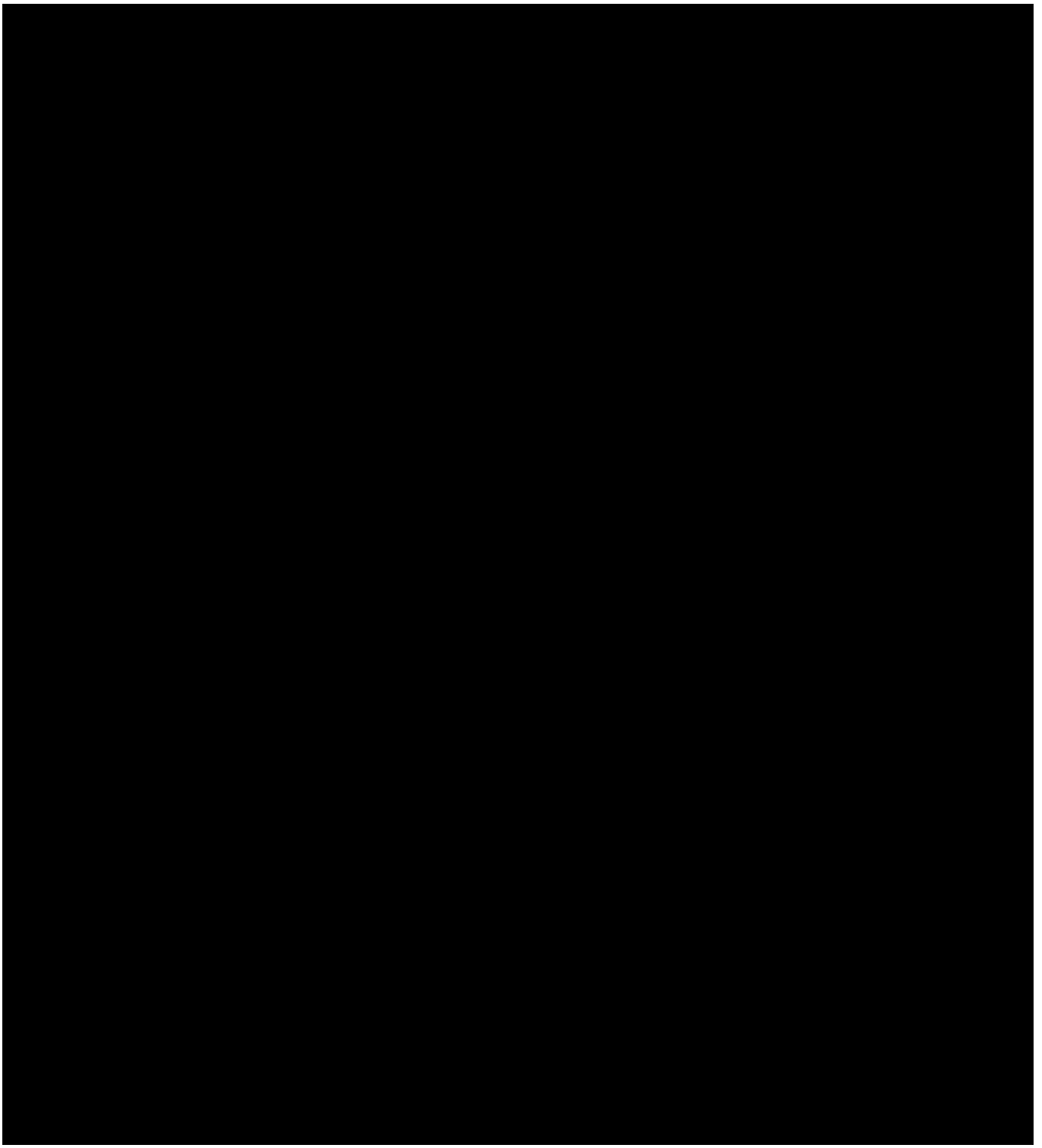
EXHIBIT H





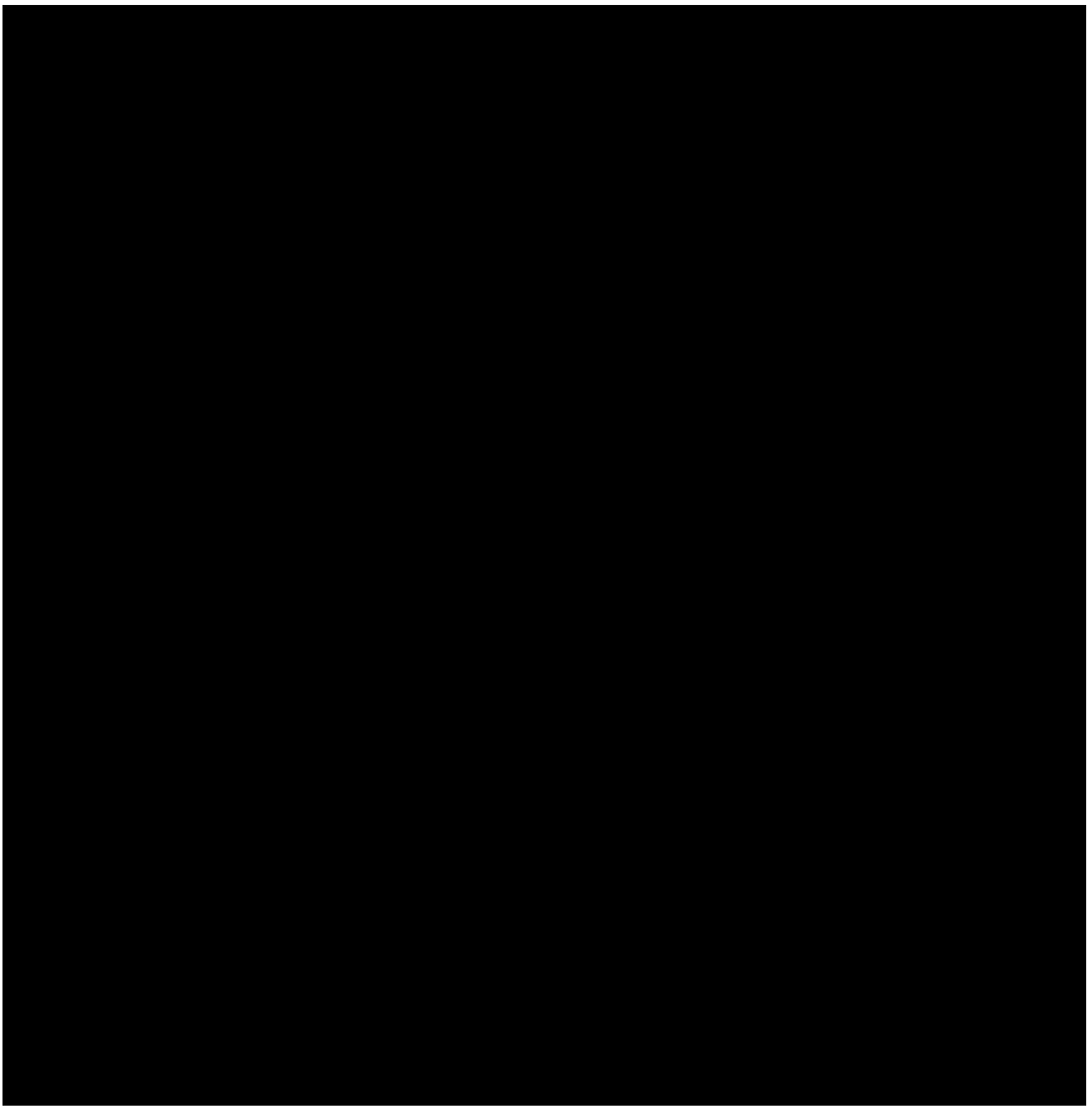


EXHIBIT I

From: Bill Schantz <wschantz@seniorsettlementsllc.com>
Sent: Tuesday, August 05, 2014 3:47 PM
To: Tom Rose; Dave Leeman
Subject: FW: Exemption Question

Guys

This is counsel's response to the email that Dave sent and I forwarded to them. As typical attorneys they were very careful in their wording but I think you will see that they are totally convinced that 9 month notes are not securities and they structured the entire program to be exempt.

From: John W. Pauciulo [mailto:JPauciulo@eckertseamans.com]
Sent: Tuesday, August 05, 2014 3:34 PM
To: Bill Schantz
Subject: Exemption Question

Bill:

I understand the concern with respect to the exemption of the notes. As we have discussed, the law concerning whether notes having a nine-month maturity date are deemed to be securities is complex and can be confusing. Courts have sometimes focused on the context and function of the notes and not the literal words of the securities laws. In fact, the issue has gone all the way up to the US Supreme Court more than once. In the most recent US Supreme Court case, Reves v. Ernst and Young, 3 justices dissented from the majority. All nine justices could not agree as to whether the instrument in that case was a security. In fact, the US Federal Court for the 8th Circuit held that the notes in this case were not securities.

Against this regulatory backdrop we have discussed whether the proposed notes will be exempt. We have drafted the documents with the intent to meet the requirements of the 9 month note exemption. I think that a regulator or court should find that the notes are exempt but, given the number of elements involved and the complex case rulings, providing a formal legal opinion on this point would not be feasible.

Even if the notes, for some reason, are not exempt and deemed to be securities, we have included robust informational disclosures in the offering materials, including financial statements, that would allow the issuer reasonably to claim that the offering itself is exempt from registration under Section 4(2) of the Securities Act of 1933 and, possibly, Regulation D.

I have reviewed the materials which you forwarded to me. The article from the law firm in Oregon is good and I think our documents are responsive to the items listed there. The law review article is from 1977 and there have been many cased decided since then, including the US Supreme Court case mentioned above. Accordingly, the article is dated and of little value. The information set forth in SEC pamphlet is consistent with what I have indicated and the approach that we have taken in drafting the documents.

There is a means by which persons involved in the sale of the notes could protect themselves from a decision that the notes are securities. Rather than be paid a commission from the issuer on a sale, these persons could serve as a purchaser representative and be retained and paid by the purchaser. A portion of the amount invested would be deemed a fee for the purchaser representative. I particularly like this approach because it more closely reflects the relationship between the agents and the investor. As I understand it, you will be working through investment advisors, insurance agents and the like. Presumably, these people already have a business relationship with persons to whom

they will present the note program and, in that context, are already providing advice (for example, this investment would be a good way to diversify a portfolio). They will be, in fact, acting in the capacity of a purchaser representative. We could document the relationship with a simple one or two page agreement.

Please let me know if you'd like to discuss the matter further.

John W. Pauciulo

John W. Pauciulo
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Two Liberty Place
50 South 16th Street • 22nd Floor • Philadelphia, PA 19102
Direct (215) 851-8480 | Fax (215) 851-8383
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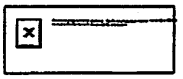
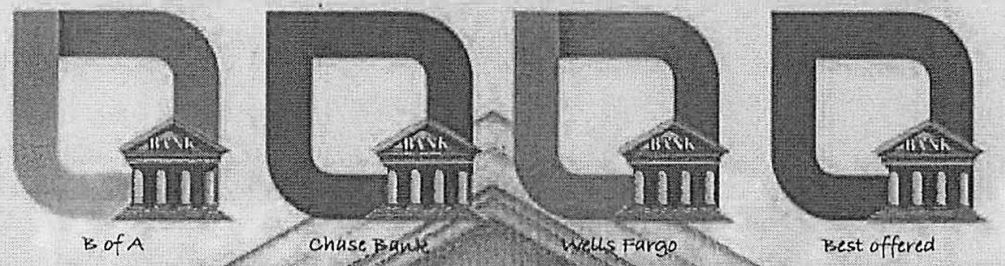


EXHIBIT J

Looking for a short term excellent growth investment?

You could accept these rates for a 1 year CD from your Bank.



These banks would then lend your money to others for anywhere from 4.00% to 24.99%.

...or instead YOU can be the bank.

Lend your money to a corporation and earn **7%** in just nine months!

(9.3% Annualized Return)

The Borrower: Verto Capital Management LLC, Maple Shade, NJ

- Verto Capital Management, LLC is an affiliate of Senior Settlements, founded in 1998. They have more than 16 years experience sourcing, valuing, negotiating and acquiring existing life insurance policies in the secondary market (Life Settlements) with significant arbitrage opportunities. Senior Settlements LLC has originated over $500 Million in Life Settlements for numerous institutional clients including Goldman Sachs, Deutsche Bank, Commerzbank AG, BlueCrest Capital Management and multiple hedge funds.

The Lender: You, the investor.

- Will earn 7% interest on your investment, with principle and interest paid back in only nine months.
- You have the option to reinvest for another nine month term to earn an annualized growth of 9.3%.

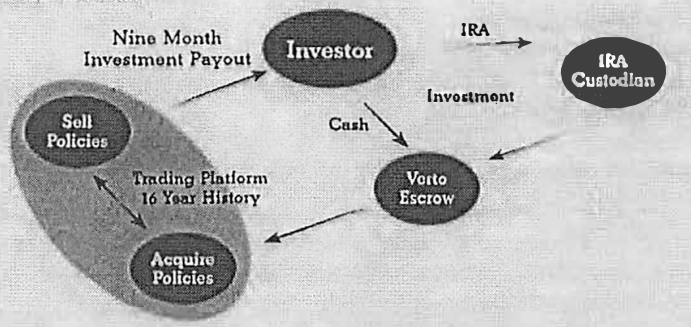
The Process:

- With funds from institutional and private investors, Verto Capital Management will acquire Life Settlements from Senior Settlements at significant discounts and resell them to financial institutions at a profit.

Transaction Examples

Death Benefit	$5,000,000	$1,000,000
Normal Market Value	$650,000	$148,502
Shadow Account Value	$960,000	$228,546
Profit (% increase)	47.7%	53.9%

Investment Flow



The Safeguards:

- Fully Collateralized and Secured by a Collateral Assignment and Pledge Agreement of the Life Settlements acquired and owned by Verto.
- Life Settlement assets will have a minimum ratio of 2:1 or 200% (loan to face value) in Life Settlements acquired and traded.
- In the unlikely event of default, the Lender has legal right to obtain ownership of one or more Life Settlements in order to generate cash to repay amount due

The Risks:

- Non-Liquid – Investor's money is not available for nine months.
- Not FDIC insured in case of default.
- Reinvestment after nine months is not guaranteed.

NINE MONTH SECURED NOTE FREQUENTLY ASKED QUESTIONS (FAQ's)

Q. How can these notes pay this high rate of return?
A.oJust as with oil wells, mining, ando other business commodities, when anyo company makes an excellent profit, theiro investors generally enjoy the benefits.o Verto Capital Management with its affiliate, Senior Settlements, (the originalo pioneer of the life settlement asset class) have been originating, servicing, optimizing and trading life settlements for institutions over the past sixteen years. Based on their experience and proprietary analytics they have developed a method for acquiring policies far below market value. These policies, acquired with capital from the Note program, are immediately sold to institutional investors at substantial margins. The profits are such that they can offer you a 7% return in nine months.

Q. Will I own Life Settlements?
A.oNo, life settlements do not have a guaranteed percentageo payout at a specified period of time. The life settlementso serve only as collateral for the note.o

Q.oAre these notes considered a low risk investment?o
A.oThis is not a speculative investment influenced by stock market performance or the economy. All the risk of a life settlement maturing at an accurately determined life expectancy is born by the institutions that purchase them from Verto.o Funds will be used to acquire and trade life settlement polices at a minimum of 200% loan to face value. When Vertoo buys a policy with your investment money, they alreadyo know the resale value and typically already have a buyer foro the policy identified. Further, the management of both Vertoo Capital Management LLC and Senior Settlements LLC haso demonstrated a consistent track record of integrity and competence during their combined sixteen years of successfulo and profitable operations. In fact, all indications point too continuing success far into the foreseeable future.o

Q.oHow can I check out Verto Capital Management, LLC?o
A. You are encouraged to do your own due diligence on Verto Capital Management LLC starting at www.vertocap.o com. Their affiliate company, Senior Settlements LLC, cano be found at www.seniorsettlementsllc.com. o

Q.oCan I use Qualified (IRA) money as well aso Non-qualified (cash)?o
A.oYes. However for qualified money, a third-party IRA Administrator is required to hold this type of investment. We use Provident Trust Group, a Nevada corporation who iso approved to oversee this asset for a small fixed annual fee.o

Q. What is the minimum and maximum investment?o
A. The minimum is $50,000 with no seto maximum amount. However, Verto Capital Management must approve large investments and suitability questions willo be asked for your protection.o

Q. What is required from me to make this investment?
A. This investment is a Promissory Noteo which includes a Collateral Assignmento and Pledge Agreement issued under theo laws of the state of New Jersey and includes 22 pages of legal documents. Additional application paperwork will be required for qualified money. You may wire, direct deposit your money, or use a check to make a purchase. If using qualified funds, you must transfer the money from your present IRA custodian to Provident Trust prior to funding this investment.

Q. Will I receive paperwork in return from them?
A.oYes, a fully executed Promissory Note and Pledge Agreement.o

Q. And the return payment?
A. All interest will be accrued for the term of the Note.o At the end of the term, both principal and interest will beo returned to the investor. Verto Capital Management mayo provide the option to reinvest for another nine months. Foro qualified funds, all proceeds will be sent directly to theo qualified custodian.o

Q.oCan I get my money back before nine months?
A. No. The money is illiquid during the nine month term.o

Q. What happens if Senior Settlements LLC goes out of business?
A.oVerto Capital Management and its affiliate Senior Settlements have built a growing and profitable business overo the past 16 years and the probability of a business failureo is extremely remote. However, with this investment youo hold a legal promissory note that is backed up (collateralized) by a legally binding and irrevocable Collateralo Assignment and Pledge Agreement on all of the Borrower's right, title and interest in, to and under all life insurance policies acquired by Verto Capital Management (theo "Collateral"). A quarterly activity report on the collateralo balance vs. investment dollars will be available from youro advisor for your assurance the collateral is sufficient too cover the investment amounts.o

EXHIBIT K

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10387 / July 6, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 81088 / July 6, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18062

In the Matter of Randal Wallis, Respondent.	ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Randal Wallis ("Wallis").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act, Making Findings and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this order and Respondent's Offer, the Commission finds[1] that Respondent violated Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act by acting as an unregistered broker in transactions involving unregistered purchases and sales of securities in the form of 7% promissory notes issued by Verto Capital Management LLC (the "Verto Notes").

A. RESPONDENT

1. Randal Wallis, 63, is a resident of Pottsboro, Texas. At all relevant times, Wallis was associated with Retirement Surety and a representative of Crescendo Financial. Wallis purports to be licensed as an insurance agent in Texas. Wallis does not hold any securities licenses and has never been registered as, or associated with, a registered broker-dealer.

B. RELEVANT ENTITIES AND INDIVIDUALS

2. Retirement Surety LLC ("Retirement Surety") is a Texas limited liability company formed on February 5, 2010 and based in Plano, Texas. According to its website, Retirement Surety is an organization comprised of a group of "state licensed partners" who provide investment advice for retirement planning. From at least 2013 through 2015, Retirement Surety was managed by David Leeman, Thomas Rose, David Featherstone, and Ronald Wills. During that same time period, Wallis was associated with Retirement Surety. Retirement Surety has never been registered as, or associated with, a registered broker-dealer.

3. Crescendo Financial LLC ("Crescendo") is a Texas limited liability company formed on June 18, 2013 and based in Plano, Texas. Crescendo's sole function was to broker the sale of Verto Notes, and it offered no other products. According to its website, Crescendo is an organization comprised of a group of "licensed partners" who sell "investments." At all relevant times, Crescendo was managed by Rose and Leeman, who along with Featherstone, Wallis, and Wills, sold the Verto Notes. Crescendo has never been registered as, or associated with, a registered broker-dealer.

4. William R. Schantz III ("Schantz"), 62, resides in Moorestown, New Jersey. Schantz founded and owns several affiliated corporations, none of which are registered with the Commission, including: Verto Capital Management LLC ("Verto"), Senior Settlements LLC ("Senior Settlements"), Mid Atlantic Financial, LLC ("Mid Atlantic"), and Green Leaf Capital Management, LLC ("Green Leaf"). Schantz is not registered with the Commission and is not affiliated with a registered broker-dealer or investment adviser. He was last associated with an NASD member firm in 2000. In 2002, the NASD sanctioned and suspended Schantz for having brokered the sale of unregistered nine-month promissory notes guaranteed by insurance companies without disclosing the sales to the NASD-member firm with which he was associated. In 2006, Schantz entered into a consent order with the New Jersey Bureau of Securities (for the same

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

conduct) and disgorged $7,000 in commissions he had earned selling the notes. Schantz is currently a defendant in *SEC v. Schantz, et al.*, Case No. 17-cv-03115.

5. Verto Capital Management LLC ("Verto") is a Delaware Limited Liability Company that Schantz formed in 2009. According to its website, Verto conducts private placement securities offerings to accredited investors, and invests in bundles of life settlements. Verto is an affiliate of Senior Settlements. Verto issued 7% promissory notes that were sold by Wills, Leeman, Rose, Wallis, and Featherstone. Verto is currently a defendant in *SEC v. Schantz, et al.*, Case No. 17-cv-03115.

C. RESPONDENT SOLD SECURITIES AS AN UNREGISTERED BROKER IN UNREGISTERED TRANSACTIONS

6. From at least October 2014 to October 2016, Respondent acted as a broker for Verto Notes, selling 9 Verto Notes directly to 8 individual investors and receiving commissions from Verto for each Verto Note sale and Forbearance Agreement.

7. In brokering the Verto Note sales, Respondent provided investors with offering materials for the Verto Notes that described Verto's business and the reasons for selling the Verto Notes. The offering materials stated that " [Verto] is engaged in the business of sourcing, valuing and selecting life insurance policies for resale to investors ('Life Settlements')" and "[t]he Note Amount shall be used by [Verto] for general working capital purposes including but not limited to fund [Verto's] purchase and acquisition of life insurance policies." The offering materials also described Verto's "Trading Strategy" as an investment in a common enterprise for profit: "As polices [sic] come to the secondary market, [Verto], together with its affiliate Senior Settlements, LLC, will seek to identify policies that have significant arbitrage opportunities and look to acquire the policy at significant discounts from the potential resale value" and "[Verto's] ability to make scheduled payments on the Promissory Notes outstanding at any particular time depends on [Verto's] financial condition and operating performance, which is subject to the Issuer successfully executing its trading strategy..."

8. The offering materials provided by the Respondent also described the risks of investing in the Verto Notes. The materials stated that "[i]f [Verto] does not generate profits, [Verto] may be unable to repay all the promissory notes then outstanding upon maturity" and described Verto's "Lack of Operating History," stating "Verto is a recently formed entity and has no meaningful operating or financial history . . ."

9. The offering materials provided by the Respondent to investors also stated that "the repayment of the Promissory Notes is secured by a collateral assignment and pledge of all of the Life Settlements owned by the issuer from time-to-time which includes Life Settlements acquired with the proceeds of the note."

10. Respondent regularly participated in all key points in the chain of sale and distribution of the Verto Notes, including soliciting investors to purchase the Verto Notes, advising investors regarding the Verto Notes, handling all necessary paperwork to effectuate the Verto Notes sales, monitoring and managing repayments to investors, and negotiating and arranging so-called "forbearance agreements" between the Verto Note holders and Verto.

11. Retirement Surety and Crescendo solicited Verto Note investors through radio broadcasts and internet postings, and directly from their pool of existing insurance product clients.

12. On radio shows broadcast on at least two radio networks, representatives of Retirement Surety and Crescendo described the Verto Note program and directed radio listeners to the Retirement Surety website. Retirement Surety's website described and solicited investors to purchase the Verto Notes.

13. Similarly, Crescendo's website described and solicited investors to purchase the Verto Notes.

14. In addition, Respondent solicited Verto Note purchases through meetings with, and telephone calls and mailings to, Respondent's pool of previously-existing insurance clients.

15. Respondent earned transaction-based compensation for each Verto Note sale. For each Verto Note that he sold, Respondent earned a 7% commission, 5% of which went to Respondent, and 2% of which went to Crescendo.

16. When Verto was unable to repay investors amounts due under the original Verto Notes, Respondent presented the investors with documents entitled "Forbearance Agreements," which extended the terms of the Verto Notes. For each Forbearance Agreement, Respondent earned an additional 4% commission (on top of their initial 7% sales commission at the time of issuance). Some investors were presented with second "Forbearance Agreements" for which Respondent received another 4% commission on the unpaid outstanding balance.

17. Respondent earned a total of $23,829 in commissions through his Verto Note sales: $15,870 for brokering the initial sales of the Verto Notes, an additional $6,540 for later brokering initial Forbearance Agreements, and an additional $1,419 for brokering secondary Forbearance Agreements for a number of the same Verto Notes.

18. In brokering the Verto Note sales, Respondent also expressly held himself out as an advisor providing investment advice. Retirement Surety's website outlined "five principles for your investments," and in subscriber information forms for certain of the Verto Notes he sold, Wallis listed his relationship to the investor as an "Advisor."

19. The Verto Notes are securities.

20. No registration statement was filed or in effect for the offering and sales of Verto Notes, and no valid exemption from registration existed for the Verto Notes offering.

D. VIOLATIONS

1. As a result of the conduct described above, Respondent violated Securities Act Section 5(a) and (c), which prohibit the direct or indirect sale or offer for the sale of securities unless a registration statement is filed or in effect.

2. As a result of the conduct described above, Respondent violated Exchange Act Section 15(a)(1), which prohibits a broker from making use of the mails or any means or

instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Wallis cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B. Respondent shall pay disgorgement of $23,829, prejudgment interest of $475 and civil penalties of $7,500, to the Securities and Exchange Commission. Payment shall be made in four equal installments of $7,951.00 each, with payment to be received on the following schedule: first payment within 30 days of the issuance of this Order, second payment within 180 days of the issuance of this Order, third payment within 270 days of the issuance of this Order, and fourth payment within 360 days of the issuance of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wallis as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate

Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties referenced in paragraph IV.B above. This Fair Fund may receive the funds from and or be combined with the fair fund established in the related civil action, *SEC v. Verto Capital Management LLC et. al.*, 17-civ-03115 (D. N.J. May 4, 2017), and fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in this proceeding, in order for the combined fair funds to be distributed to harmed investors affected by the violative conduct. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary

EXHIBIT L

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10388 / July 6, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 81089 / July 6, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18063

In the Matter of **Ronald Howard Wills,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Ronald Howard Wills ("Wills").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act, Making Findings and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this order and Respondent's Offer, the Commission finds[1] that Respondent violated Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act by acting as an unregistered broker in transactions involving unregistered purchases and sales of securities in the form of 7% promissory notes issued by Verto Capital Management LLC (the "Verto Notes").

A. RESPONDENT

1. Ronald Howard Wills, 71, is a resident of McKinney, Texas. At all relevant times, Wills was a partner of Retirement Surety LLC and a representative of Crescendo Financial LLC. Wills purports to be licensed as an insurance agent in Texas. Wills does not hold any securities licenses and has never been registered as, or associated with, a registered broker-dealer.

B. RELEVANT ENTITIES AND INDIVIDUALS

2. Retirement Surety LLC ("Retirement Surety") is a Texas limited liability company formed on February 5, 2010 and based in Plano, Texas. According to its website, Retirement Surety is an organization comprised of a group of "state licensed partners" who provide investment advice for retirement planning. From at least 2013 through 2015, Retirement Surety was managed by Wills, David Leeman, Thomas Rose, and David Featherstone. During that same time period, Randall Wallis was associated with Retirement Surety. Retirement Surety has never been registered as, or associated with, a registered broker-dealer.

3. Crescendo Financial LLC ("Crescendo") is a Texas limited liability company formed on June 18, 2013 and based in Plano, Texas. Crescendo's sole function was to broker the sale of Verto Notes, and it offered no other products. According to its website, Crescendo is an organization comprised of a group of "licensed partners" who sell "investments." At all relevant times, Crescendo was managed by Rose and Leeman, who along with Featherstone, Wallis, and Wills, sold the Verto Notes. Crescendo has never been registered as, or associated with, a registered broker-dealer.

4. William R. Schantz III ("Schantz"), 62, resides in Moorestown, New Jersey. Schantz founded and owns several affiliated corporations, none of which are registered with the Commission, including: Verto Capital Management LLC ("Verto"), Senior Settlements LLC ("Senior Settlements"), Mid Atlantic Financial, LLC ("Mid Atlantic"), and Green Leaf Capital Management, LLC ("Green Leaf"). Schantz is not registered with the Commission and is not affiliated with a registered broker-dealer or investment adviser. He was last associated with an NASD member firm in 2000. In 2002, the NASD sanctioned and suspended Schantz for having brokered the sale of unregistered nine-month promissory notes guaranteed by insurance companies without disclosing the sales to the NASD-member firm with which he was associated. In 2006,

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Schantz entered into a consent order with the New Jersey Bureau of Securities (for the same conduct) and disgorged $7,000 in commissions he had earned selling the notes. Schantz is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

5. Verto Capital Management LLC ("Verto") is a Delaware Limited Liability Company that Schantz formed in 2009. According to its website, Verto conducts private placement securities offerings to accredited investors, and invests in bundles of life settlements. Verto is an affiliate of Senior Settlements. Verto issued 7% promissory notes that were sold by Wills, Leeman, Rose, Wallis, and Featherstone. Verto is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

C. RESPONDENT SOLD SECURITIES AS AN UNREGISTERED BROKER IN UNREGISTERED TRANSACTIONS

6. From at least September 2013 to October 2014, Respondent acted as a broker for Verto Notes, selling 5 Verto Notes directly to 5 individual investors and receiving commissions from Verto for each Verto Note sale.

7. In brokering the Verto Note sales, Respondent provided investors with offering materials for the Verto Notes that described Verto's business and the reasons for selling the Verto Notes. The offering materials stated that " [Verto] is engaged in the business of sourcing, valuing and selecting life insurance policies for resale to investors ('Life Settlements')" and "[t]he Note Amount shall be used by [Verto] for general working capital purposes including but not limited to fund [Verto's] purchase and acquisition of life insurance policies." The offering materials also described Verto's "Trading Strategy" as an investment in a common enterprise for profit: "As polices [sic] come to the secondary market, [Verto], together with its affiliate Senior Settlements, LLC, will seek to identify policies that have significant arbitrage opportunities and look to acquire the policy at significant discounts from the potential resale value" and "[Verto's] ability to make scheduled payments on the Promissory Notes outstanding at any particular time depends on [Verto's] financial condition and operating performance, which is subject to the Issuer successfully executing its trading strategy..."

8. The offering materials provided by the Respondent also described the risks of investing in the Verto Notes. The materials stated that "[i]f [Verto] does not generate profits, [Verto] may be unable to repay all the promissory notes then outstanding upon maturity" and described Verto's "Lack of Operating History," stating "Verto is a recently formed entity and has no meaningful operating or financial history . . ."

9. The offering materials provided by the Respondent to investors also stated that "the repayment of the Promissory Notes is secured by a collateral assignment and pledge of all of the Life Settlements owned by the issuer from time-to-time which includes Life Settlements acquired with the proceeds of the note."

10. Respondent regularly participated in all key points in the chain of sale and distribution of the Verto Notes he sold, including soliciting investors to purchase the Verto Notes, advising investors regarding the Verto Notes, handling all necessary paperwork to effectuate the Verto Notes sales, and monitoring and managing repayments to investors.

11. Retirement Surety and Crescendo solicited Verto Note investors through radio broadcasts and internet postings, and directly from their pool of existing insurance product clients.

12. On radio shows broadcast on at least two radio networks, representatives of Retirement Surety and Crescendo described the Verto Note program and directed radio listeners to the Retirement Surety website. Retirement Surety's website described and solicited investors to purchase the Verto Notes.

13. Similarly, Crescendo's website described and solicited investors to purchase the Verto Notes.

14. In addition, Respondent solicited Verto Note purchases through meetings with, and telephone calls and mailings to, Respondent's pool of previously-existing insurance clients.

15. Respondent earned transaction-based compensation for each Verto Note sale. For each Verto Note that he sold, Respondent earned a 7% commission, 5% of which went to Respondent, and 2% of which went to Crescendo.

16. Respondent earned a total of $13,340 in commissions through his Verto Note sales.

17. In brokering the Verto Note sales, Respondent also expressly held himself out as an advisor providing investment advice. Retirement Surety's website outlined "five principles for your investments," and in subscriber information forms for certain of the Verto Notes he sold, Wills listed his relationship to the investor as an "Advisor."

18. The Verto Notes are securities.

19. No registration statement was filed or in effect for the offering and sales of Verto Notes, and no valid exemption from registration existed for the Verto Notes offering.

D. VIOLATIONS

1. As a result of the conduct described above, Respondent violated Securities Act Section 5(a) and (c), which prohibit the direct or indirect sale or offer for the sale of securities unless a registration statement is filed or in effect.

2. As a result of the conduct described above, Respondent violated Exchange Act Section 15(a)(1), which prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Wills cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B. Respondent Wills shall pay disgorgement of $10,000, prejudgment interest of $861 and civil penalties of $7,500 to the Securities and Exchange Commission. Payment shall be made in four equal installments of $4,590.25 each, with payment to be received on the following schedule: first payment within 30 days of the issuance of this Order, second payment within 180 days of the issuance of this Order, third payment within 270 days of the issuance of this Order, and fourth payment within 360 days of the issuance of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wills as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties referenced in paragraph IV.B above. This Fair Fund may receive the funds from and or be combined with the fair fund established in the related civil action, *SEC v. Verto Capital Management LLC et. al.*, 17-civ-03115 (D. N.J. May 4, 2017), and fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in this proceeding, in order for the combined fair funds to be distributed to harmed investors affected by the violative conduct. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all

purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on April 19, 2019, a true and correct copy of the foregoing was sent in the manner indicated below upon the following:

VIA ELECTRONIC MAIL
Honorable James E. Grimes
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
Via email to alj@sec.gov (courtesy copy)

VIA UPS
Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

VIA ELECTRONIC MAIL
Jeffrey Ansley
Toy (TJ) Hales
Bell Nunnally
2323 Ross Ave. Suite 1900
Dallas, TX 75201
Counsel for Respondents Retirement Surety, LLC, Crescendo Financial LLC, Thomas Rose, David Leeman and David Featherstone
jansley@bellnunnally.com
thales@bellnunnally.com

Jennifer K. Vakiener