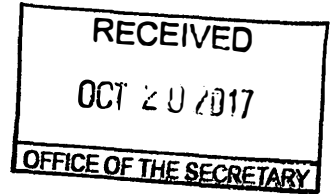


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

**HARD COPY**

ADMINISTRATIVE PROCEEDING  
File No. 3-18099



In the Matter of

**BLACK DIAMOND ASSET  
MANAGEMENT LLC**

and

**ROBERT WILSON,**

**Respondents.**

**THE DIVISION OF ENFORCEMENT'S  
MOTION FOR SANCTIONS AGAINST RESPONDENTS**

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October 19, 2017

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Under Commission Rules of Practice 155(a) and 220(f) and the Court's Order Finding Respondents in Default (the "Default Order"), dated September 28, 2017, the Division of Enforcement respectfully submits this motion for sanctions against Respondents Black Diamond Asset Management LLC ("Black Diamond") and Robert Wilson ("Wilson") (collectively, "Respondents").

### PRELIMINARY STATEMENT

Wilson and Black Diamond defrauded potential advisory clients by claiming that Black Diamond managed over half a billion dollars, and later tens of millions of dollars, of assets. Based on these misrepresentations, Respondents registered Black Diamond with the Commission as an investment adviser despite the firm's ineligibility. These and other OIP allegations (which, under the Default Order, the Court "will deem as true") and Wilson's extreme conduct in this proceeding—including his death threat to Division counsel and emails the Court has described as "abusive and profane"—establish that serious sanctions are warranted.<sup>1</sup> The Court should order Respondents to cease and desist from the relevant violations, bar Wilson permanently and collaterally from the securities industry, revoke Black Diamond's investment adviser registration, and impose a third-tier civil penalty on Black Diamond and Wilson.

### STATEMENT OF FACTS

#### I. The OIP's Allegations<sup>2</sup>

##### A. Respondents

In 2013, Wilson formed Black Diamond as a Wyoming limited liability company. (OIP ¶ 5.) In 2015, Wilson registered Black Diamond with the Commission as an investment adviser, and Black Diamond has been so registered since March 10, 2015. (OIP ¶¶ 1, 5.) Wilson is Black Diamond's sole

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<sup>1</sup> "OIP" means the Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 and Notice of Hearing, dated August 4, 2017.

<sup>2</sup> The facts in this section are based on the OIP's allegations.

managing member, chief investment officer, and chief compliance officer. (OIP ¶¶ 1, 4.) Black Diamond has no employees or owners other than Wilson. (OIP ¶ 5.)

**B. Black Diamond's 2015 Form ADV Filing with the Commission**

On March 10, 2015, Wilson filed a Form ADV (the "2015 ADV") to register Black Diamond as an investment adviser with the Commission. (OIP ¶ 6.) The 2015 ADV form informed Wilson that, to register with the Commission, Black Diamond had to fit into one of twelve enumerated categories of advisers eligible for Commission registration, including "a large advisory firm that . . . has regulatory assets under management of \$100 million (in U.S. dollars) or more." (OIP ¶¶ 8–9.) Wilson checked the box on the form corresponding to that category. (OIP ¶ 10.)

The 2015 ADV form then asked Black Diamond: "To approximately how many clients did you provide investment advisory services during your most recently completed fiscal year?" (OIP ¶ 11.) The form provided several ranges of client numbers, including "0," "1–10," "11–25," and "26–100." (OIP ¶ 11.) Wilson selected the answer "26–100" clients. (OIP ¶ 12.)

The 2015 ADV form also asked whether Black Diamond "provide[s] continuous and regular supervisory or management services to securities portfolios." (OIP ¶ 13.) The 2015 ADV's instructions informed Wilson and Black Diamond:

You provide continuous and regular supervisory or management services with respect to an account if: (a) you have *discretionary authority* over and provide ongoing supervisory or management services with respect to the account, or (b) you do not have *discretionary authority* over the account, but you have ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the *client*, you are responsible for arranging or effecting the purchase or sale.

(OIP ¶ 14 (emphases in original).) Wilson responded "Yes"—that Black Diamond provided "regular supervisory or management services to securities portfolios." (OIP ¶ 15.)

The 2015 ADV form further asked Black Diamond "what is the amount of your regulatory assets under management and total number of accounts?" (OIP ¶ 16.) The 2015 ADV's instructions

informed Respondents: “In determining the amount of your regulatory assets under management, include the securities portfolios for which you provide continuous and regular supervisory or management services as of the date of filing this Form ADV.” (OIP ¶ 17.) In response, Wilson claimed that Black Diamond had \$583,750,000 in assets under management and 26 accounts. (OIP ¶ 18.)

The 2015 ADV form finally asked whether Black Diamond or any “related person” had any “discretionary authority to determine the (1) securities to be bought or sold for a *client’s* account? (2) amount of securities to be bought or sold for a *client’s* account? (3) broker or dealer to be used for a purchase or sale of securities for a *client’s* account? [or] (4) commission rates to be paid to a broker or dealer for a client’s securities transactions?” (OIP ¶ 19 (emphases in original).) Wilson replied yes to each of these four questions. (OIP ¶ 20.)

Wilson listed himself on the 2015 ADV as Black Diamond’s managing member, chief compliance officer, and chief investment officer and electronically signed the 2015 ADV on Black Diamond’s behalf. (OIP ¶¶ 7, 21.) In doing so, he certified, for both himself and Black Diamond, “under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV...are true and correct.” (OIP ¶ 21.)

### **C. Black Diamond’s 2016 Form ADV Filing with the Commission**

On March 30, 2016, Wilson filed a second Form ADV for Black Diamond (the “2016 ADV”). (OIP ¶ 22.) Wilson again listed himself as Black Diamond’s managing member, chief investment officer, and chief compliance officer. (OIP ¶ 23.) Wilson also provided his Calverton, New York street address as Black Diamond’s address. (OIP ¶ 24.) The 2016 ADV form asked Wilson to check a designated box “[i]f this address is a private residence.” (OIP ¶ 25.) Wilson did not check the designated box. (OIP ¶ 26.)

On the 2016 ADV, Wilson claimed that Black Diamond was a “mid-sized advisory firm that has regulatory assets under management of \$25 million (in U.S. dollars) or more but less than \$100

million (in U.S. dollars).” (OIP ¶ 27.) Wilson again claimed that Black Diamond had “provide[d] investment advisory services during [its] most recently completed fiscal year” to “26–100” clients. (OIP ¶ 28.) Wilson further claimed that Black Diamond had \$25,690,900 in regulatory assets under management and 26 accounts. (OIP ¶ 29.)

Wilson electronically signed the 2016 ADV and certified, for both himself and Black Diamond, “under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV...are true and correct.” (OIP ¶ 30.)

**D. Black Diamond Held Itself Out as an Investment Adviser But Never Had Any Clients or Assets Under Management.**

On its website, Black Diamond held itself out as being in the business of advising clients on securities investments in exchange for a fee based on a percentage of the asset value of each client’s account. (OIP ¶ 34.) Yet Black Diamond has never had any assets under management or any clients. (OIP ¶ 31.) As the sole person employed by or acting on behalf of Black Diamond, Wilson knew or recklessly disregarded these facts. (OIP ¶ 32.)

Nevertheless, Wilson used the 2015 ADV and the 2016 ADV—which claimed assets under management of over \$583 million and \$25 million, respectively—to solicit potential investment advisory clients. (OIP ¶¶ 18, 29, 33.) Among other things, Wilson had sole responsibility for the content of Black Diamond’s website, which contained general solicitations to retain Black Diamond as an investment adviser and links to Black Diamond’s 2015 ADV and 2016 ADV. (OIP ¶ 33.) Wilson also solicited potential clients directly. (OIP ¶ 33.)

**E. Wilson and Black Diamond Violated Advisers Act Provisions.**

Based on this conduct, Wilson and Black Diamond willfully violated Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”), which prohibit fraudulent conduct by an investment adviser. (OIP ¶ 35.) Wilson and Black Diamond also willfully violated Advisers Act Section 207, which makes it “unlawful for any person willfully to make any untrue statement of material fact in



any registration application or report filed with the Commission under the Advisers Act ... or willfully to omit to state in any such application or report any material fact which is required to be stated therein.” (OIP ¶ 36.) Black Diamond further willfully violated Advisers Act Section 203A, which prohibits an adviser “regulated or required to be regulated in the [s]tate in which it maintains its principal office and place of business” from registering with the Commission, unless it “has assets under management of not less than \$25,000,000 ... or ... is an adviser to an investment company registered under” the Investment Company Act. (OIP ¶ 37.) Finally, Wilson willfully aided and abetted or caused Black Diamond’s violations of Advisers Act Sections 203A, 206(1), 206(2), and 207. (OIP ¶ 38.)

## II. Wilson’s Conduct during the Division’s Investigation and His Testimonial Admissions

On September 13, 2016, the Division sent Black Diamond and Wilson a subpoena for documents and Wilson’s testimony. (Ex. 1.)<sup>3</sup> Three days later, Wilson sent the Division a letter on Black Diamond letterhead. (Ex. 2.) Wilson claimed that the Division had no “authorization to issue any subpoena” because the federal securities laws—including the Securities Act of 1933, the Securities Exchange Act of 1934, and the Advisers Act—“do not override the United States Constitution as clearly stated by the Framers i[n] Federalist 78.” (Ex. 2 at 1.) Wilson continued: “You need to resign and move out of the Country...so stop the retaliation because I am making your little boy [expletive] behave.” (Ex. 2 at 2.) Wilson signed the letter as Black Diamond’s “Managing Member.” (*Id.*)

On September 27, 2016, Wilson appeared for testimony in the Division’s New York Regional Office. (Ex. 3.) Wilson claimed that the Division’s subpoena was “fraudulent” under the Constitution’s Ninth Amendment. (Ex. 3 at 5:7–14, 6:4–6.) He also claimed that the Division issued the subpoena in retaliation for Wilson’s complaints about “the [then]-First Lady of the United States of America,

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<sup>3</sup> “Ex.” refers to exhibits attached to this motion. The two voicemail exhibits, Exhibits 4 and 7, are each saved as sound files on a single attached CD.

Michelle Obama, and a fraudulent deal that she's involved in with a group in Atlanta and her former chef at the White House" and about "Mary Jo[] White, the [then-]head of the Securities and Exchange Commission." (Ex. 3 at 5:14–20.) He used profanities and repeatedly accused the Division's lead investigative attorney of "treason" for conducting the investigation. (Ex. 3 at 6:12–13, 7:2–5, 8:18–19, 9:18–19, 9:23–24, 10:3–5, 11:4–7, 12:8–9.)

Later in his testimony, Wilson admitted that he controlled Black Diamond, that he was responsible for its Form ADV filings with the Commission, and that nobody helped him with or provided him with the content for those filings. (Ex. 3 at 16:1–17:2.)

### **III. Wilson's Conduct during These Proceedings**

On August 10, 2011—six days after the Commission issued the OIP—the Division sent Respondents its non-privileged investigative file on disc by overnight delivery. The next day, Wilson left a voicemail for Division counsel. (Ex. 4.) Wilson claimed that he "used to have a company called Black Diamond Asset Management" and called the Division's investigation a "criminal, lying [expletive] witchhunt." (Ex. 4.) He contended that the investigation and/or administrative proceedings violated his rights under the Ninth Amendment of the United States Constitution and threatened: "If I am contacted by any of you or you interfere with me in any fashion, I will take that as an attack on the government of the United States...and see to it that you are tried...and then hung when you are convicted.... Do not ever send me another document." (Ex. 4.)

On August 28, 2017, after the Division learned that Wilson had received personal service of the OIP, the Division sent Wilson and Black Diamond a letter, proposing a schedule, by email and overnight delivery. (Ex. 5.) That evening, Wilson replied to the email with a one-sentence email

enclosing Federalist No. 78: “You need to learn how to read you have no authority and you do not belong in this country treasonest.”<sup>4</sup> (Ex. 6.)

The next day, Wilson left Division counsel a menacing, expletive-filled voicemail referencing the Ninth Amendment. (Ex. 7.) Wilson threatened: “It is the inalienable clause of the Declaration of Independence...that has this little statement in there that when the citizens are tired of trash like you they get to adjust and abolish as they see fit or the adjustment is going to be your abolishment.... A citizen has a right to execute you any time they wish.” (Ex. 7.)

On September 5, 2017, the Division filed a letter with its proposal for a pre-hearing schedule and hearing dates and emailed a copy to this Court and Wilson. (Ex. 8.) In reply, Wilson sent an expletive-filled email to the Division and the Court. (Ex. 8.) Wilson threatened:

This woman is about as stupid as a rock as I told this [expletive] I invoke my rights under the nine amendment... That clause states clearly the following it is the right of the People to alter or to abolish the Government and that is what I did by invoking my rights under the 9<sup>th</sup> amendment... I will tell you for the last time I invoke the ninth amendment, you have no authority, you cannot override the constitution, if I do not receive within 24 hours a letter of dismissal and letters stating that all involved in this SEC crime have been fired I will exercises my additional rights of abolishment and abolish all SEC treasonest involved.

(Ex. 8.)

On September 7, 2017, the Court issued a Scheduling Order. The Scheduling Order noted that Wilson had sent two e-mails “that direct abusive and profane language to counsel for the Division,” attached those emails, and ordered Wilson to “stop sending unprofessional e-mails of this type” to the Court’s email address. (Scheduling Order at 1–2.) The Court emailed Wilson and the Division a courtesy copy of the Scheduling Order. (Ex. 9.) In reply, Wilson sent another expletive-filled email, apparently directed to the Court. (Ex. 9.) Among other things, Wilson wrote:

Get this trough your conartist head you have no authority I have taken that from your lying trash [expletive] by the invocation of the 9th amendment....

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<sup>4</sup> Wilson’s emails contain many typographical errors. This motion quotes the emails as written.

[Y]ou are stealing my money, by operating in a position you are not qualified to hold swamp creature...and you think your scum bag [expletive] is going to tell me what to do...you do not have the authority, so you resign right now [expletive] conartist.... [W]e will exercise our right trying you for treason and then excite you after you have been found guilty by 12 citizens who will not be treasonest like you [expletive] head.

(Ex. 9.)

On September 15, 2017, the Court issued an Order to Show Cause requiring Wilson and Black Diamond to show cause why this proceeding should not be determined against them by default. The Order to Show Cause noted that, notwithstanding the Court's September 15 Scheduling Order, Wilson had since "responded with another abusive and profane e-mail" and attached a copy. The Order to Show Cause then revoked Wilson's "privilege of submitting filings" to the Court by email.

## ARGUMENT

### I. The Court Should Impose Cease-and-Desist Orders on Respondents.

"Under the Advisers Act, the Commission may issue a cease and desist order against any person it found to have violated the Act." *ZPR Inv. Mgmt. Inc. v. SEC*, 861 F.3d 1239, 1255 (11<sup>th</sup> Cir. 2017) (citing 15 U.S.C. § 80b-3(k)(1)). To determine whether the public interest supports imposing a cease-and-desist order, the Commission considers the public-interest factors described in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981), as this Court has noted. *See Aegis Capital, LLC*, SEC Release No. 1053, 2016 WL 4662346, at \*5 (Sept. 7, 2016). These "*Steadman* factors" are:

(1) the egregiousness of the respondent's actions, (2) the isolated or recurrent nature of the infraction, (3) the degree of scienter involved, (4) the sincerity of the respondent's assurances against future violations, (5) the respondent's recognition of the wrongful nature of his conduct, and (6) the likelihood that the respondent's occupation will present opportunities for future violations.

*Id.* (internal quotation marks and citation omitted).

The Commission also considers the following factors in determining whether to impose a cease-and-desist order:

whether the violation [at issue] is recent, the degree of harm to investors or the marketplace resulting from the violation, ... the remedial function to be served by the cease-and-desist order in the context of any other sanctions being sought in the same proceedings[, and] ... the risk of future violations.

*Id.* (internal quotation marks and citation omitted). “Although some risk [of future violations] is necessary, it need not be very great to warrant issuing a cease-and-desist order. Absent evidence to the contrary, a finding of violation raises a sufficient risk of future violation.” *Thomas C. Gonnella*, SEC Rel. No. 4476, 2016 WL 4233837, at \*14 (Aug. 10, 2016) (internal quotation marks and citations omitted).

As an initial matter, the Court may impose cease-and-desist orders against Respondents. Wilson and Black Diamond willfully violated or willfully aided and abetted or caused violations of the Advisers Act. (OIP ¶¶ 35–38.)

Next, the public interest factors and risk of future violations warrant cease-and-desist orders against Respondents. First, Respondents’ conduct was egregious and involved a high degree of scienter. Respondents claimed that Black Diamond managed assets worth over half a billion dollars and later tens of millions of dollars, when Respondents knew that Black Diamond had no assets under management. (OIP ¶¶ 1–2, 4–5, 9, 18, 21, 27, 29, 31–33; Ex. 3 at 16:1–17:2.) Based on these false representations, Respondents registered Black Diamond with the Commission as an investment adviser, even though Black Diamond was not eligible for Commission registration, as the instructions to the Form ADV made clear. (OIP ¶¶ 6, 8–18, 21–22, 27–31, 37–38.)

Second, Respondents’ conduct was not isolated. They misled potential clients in both Black Diamond’s 2015 and 2016 Forms ADV. (OIP ¶¶ 6–33.)

Third, Respondents have neither made assurances against future violations nor recognized their wrongful conduct. Indeed, Wilson demonstrated his failure to accept any responsibility for his conduct through his “abusive and profane” communications with the Division and the Court. (Order to Show Cause; Exs. 4, 6–9.)

Fourth, Respondents' violations are recent. They occurred within the last three years, in 2015 and 2016. (OIP ¶¶ 6, 22.)

Fifth, Respondents' violations posed a significant risk of harm to investors. Respondents falsely conveyed to potential clients that Black Diamond was a large adviser with significant stature in the industry. (OIP ¶ 33.) Had clients invested based on these misrepresentations, they stood to lose their investments given Black Diamond's lack of experience managing client assets.

Finally, cease-and-desist orders are warranted—even when combined with a bar against Wilson and the revocation of Black Diamond's investment adviser registration, which are similarly warranted as described below—because “[a]lthough the likelihood that the respondent's occupation will present opportunities for future violations is a factor to consider when determining the public interest, it is not the exclusive factor.” *Piper Capital Mgmt., Inc.*, SEC Rel. No. 2163, 2003 WL 22016298, at \*22 (Aug. 26, 2003) (imposing a cease-and-desist order and a monetary penalty against an investment adviser that no longer existed and whose registration had been revoked in the same proceeding).

## **II. The Court Should Bar Wilson Permanently and Collaterally from the Industry.**

Advisers Act Section 203(f) authorizes the Commission to:

bar any person who, at the time of the misconduct, was associated with an investment adviser, from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization if we find on the record after notice and opportunity for a hearing that the person willfully violated the securities laws and the sanction is in the public interest.

*Dennis J. Malouf*, SEC Rel. No. 4463, 2016 WL 4035575, at \*23 (July 27, 2016) (citing 15 U.S.C. § 80b-3(f) and, on review of initial decision imposing a 7.5-year industry bar, finding that a bar without time limitation or a right to reapply was in the public interest) (internal quotation marks and citations omitted). Section 9(b) of the Investment Company Act of 1940 “similarly authorizes a bar from certain associations with an investment company based on the public interest.” *Timothy*

*Dembski*, SEC Rel. No. 4671, 2017 WL 1103685, at \*13 (Mar. 24, 2017) (citing 15 U.S.C. § 80a-9(b)).

The Court should bar Wilson collaterally—from association with all these aspects of the securities industry—without a time limitation or a right to reapply.

As an initial matter, the Division has met the prerequisites for an industry bar against Wilson. First, Wilson was associated with Black Diamond, a registered investment adviser, at the time of his misconduct.<sup>5</sup> (OIP ¶¶ 4–7, 22–23.) Second, Wilson willfully violated, willfully aided and abetted violations of, and willfully caused violations of the Advisers Act. (OIP ¶¶ 35–38.)

Next, the Court should impose a permanent, collateral bar. First, the *Steadman* factors heavily weigh in favor of a bar, for the reasons described in Section I, above. *See, e.g., Warwick Capital Mgmt., Inc.*, SEC Rel. No. 2694, 2008 WL 149127, at \*10–11 (Jan. 16, 2008) (imposing a permanent bar on investment adviser’s president where he overstated adviser’s assets under management in Forms ADV and thereby “maintained [adviser’s] Commission registration when it was not eligible to do so,” among other things, even where “the law judge found no evidence of harm to [the adviser’s] clients”).

Second, Wilson’s extreme conduct during this proceeding warrants a permanent, collateral bar to protect the investing public from him. Specifically, Wilson has made death threats against Division counsel. (Ex. 7 (“A citizen has a right to execute you any time they wish.”).) He has sent

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<sup>5</sup> Furthermore, although Black Diamond never received compensation for advising clients—because it never obtained clients—it nevertheless served as an investment adviser because it expected to obtain compensation from clients (OIP ¶ 34). *See* U.S.C. § 80b-2(a)(11) (defining “investment adviser” in relevant part as “any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities”); *SEC v. Fife*, 311 F.3d 1, 11 (1<sup>st</sup> Cir. 2002) (finding that the Commission had shown a likelihood of success on its Advisers Act claims where “although [the defendant] has not yet received compensation, he understood that he would be compensated for his efforts by a commission based on a percentage of the profits from the investments, *if successful*”); *David J. Montanino*, SEC Rel. No. 773, 2015 WL 1732106, at \*26 (Apr. 16, 2015) (“This expectation of compensation upon success is enough” to satisfy the investment adviser definition’s compensation requirement).

“abusive and profane” emails to the Division and the Court. (Order to Show Cause; Exs. 6, 8–9.) And he has repeatedly claimed that the Commission has no authority over him, despite his registration of Black Diamond with the Commission as an investment adviser. (Exs. 4, 6–9; OIP ¶ 6.) Absent a permanent, collateral bar, Wilson poses serious danger to the investing public. He fails to accept that the federal securities laws apply to Commission-registered firms and their associated personnel—and therefore fails to recognize his wrongful conduct—and his extreme behavior shows his unfitness for employment in the securities industry. *See, e.g., Gary A. Smith*, SEC Rel. No. 84, 1996 WL 4888, at \*3 (Jan. 4, 1996) (“It is in the public interest to bar [respondent] from participating in the securities industry because he does not accept federal jurisdiction over activities which Congress and the courts have described as those of an investment adviser.... In addition, [respondent’s] irrational death threats against federal government employees indicate that [he] does not have the temperament and judgment required of a person who acts as a fiduciary in a position of trust and responsibility.”).

### **III. The Court Should Revoke Black Diamond’s Investment Adviser Registration.**

Advisers Act Section 203(e) authorizes the Commission “to revoke an adviser’s registration if it is in the public interest and the adviser, or any person associated with it, has willfully violated the securities laws.” *J.S. Oliver Capital Mgmt., LP*, SEC Rel. No. 4431, 2016 WL 3361166, at \*11 (June 17, 2016) (citing 15 U.S.C § 80b-3(e)(5)). The Commission considers the *Steadman* factors in deciding whether to revoke an adviser’s registration, along with “the deterrent effect of administrative sanctions.” *GL Capital Partners, LLC*, SEC Rel. No. 1149, 2017 WL 2645655, at \*4–5 (June 20, 2017) (citing cases).

Just as the *Steadman* factors warrant a permanent, collateral bar against Wilson, they warrant revocation of Black Diamond’s adviser registration. As a practical matter, Black Diamond is Wilson. Wilson served as Black Diamond’s sole managing member, chief compliance officer, and



chief investment officer, signed Black Diamond’s Forms ADV, and used his home address as Black Diamond’s address. (OIP ¶¶ 4–7, 22–24.) Nobody else worked for or owned Black Diamond. (OIP ¶¶ 5, 32.) Indeed, Wilson has admitted in testimony that he controlled Black Diamond, that he was responsible for its Form ADV filings, and that nobody helped him with or provided him with the content for those filings. (Ex. 3 at 16:1–17:2.) For the reasons described above in Sections I and II, the *Steadman* factors—including Wilson’s egregious conduct and failure to accept responsibility in this proceeding—therefore warrant revocation of Black Diamond’s adviser registration. *See J.S. Oliver*, 2016 WL 3361166, at \*11 (revoking an investment adviser’s registration for the same reasons the Commission imposed an industry bar on the individual respondent).

Revocation is also particularly appropriate here, because Black Diamond was never eligible for Commission registration as an investment adviser in the first place and was able to register with the Commission based only on its misrepresentations. (OIP ¶¶ 6, 8–18, 21–22, 27–31, 37–38); *Arete Ltd.*, SEC Rel. No. 780, 2015 WL 1885467, at \*6 (Apr. 27, 2015) (“[Respondent’s] investment adviser registration should be revoked because it was never eligible to be registered with the Commission and is registered only because of material misrepresentations in its filings with the Commission.”).

#### **IV. The Court Should Order Respondents to Pay a Third-Tier Civil Penalty.**

Advisers Act Section 203(i) authorizes the Commission “to impose penalties for violations of the Act [ ] if it is in the public interest to do so” whenever a respondent has willfully violated, willfully aided and abetted violations of, or willfully caused violations of the Advisers Act. *Malouf*, 2016 WL 4035575, at \*26; 15 U.S.C. § 80b-3(i). In determining whether a penalty is in the public interest, the Commission may consider: (1) “whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement”; (2) “the harm to other persons resulting either directly or indirectly from such act or omission”; (3) “the extent

to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior”; (4) “specified prior findings of misconduct”; and (5) “the need to deter such person and other persons from committing such acts or omissions.” *Malouf*, 2016 WL 4035575, at \*26. As Congress has specified, the Commission may also consider “such other matters as justice may require.” *Id.*

The Advisers Act “specifies that penalties can be imposed ‘for each act or omission’ in violation of the federal securities laws.” *Id.* at \*27 (quoting 15 U.S.C. § 80b-3(i)(2)). For each such violation, the Commission:

may impose a penalty under one of three tiers, depending on the nature of the violation: first-tier penalties for violations of the securities laws; second-tier penalties for violations of the securities laws that ‘involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;’ or third-tier penalties for violations that satisfy the requirement for a second-tier penalty and ‘resulted in substantial losses or created significant risk of substantial losses to other persons or resulted in substantial pecuniary gain.’

*Id.* (quoting 15 U.S.C. § 80b-3(i)(2)). For Wilson, an individual, the maximum third-tier penalty for each violation was \$160,000 when he filed the 2015 Form ADV and \$181,071 when he filed the 2016 Form ADV. See <https://www.sec.gov/enforce/civil-penalties-inflation-adjustments.htm> (citing statute and regulations). For Black Diamond, an entity, the maximum third-tier penalty for each violation was \$775,000 when it filed the 2015 Form ADV and \$905,353 when it filed the 2016 Form ADV. See *id.*

The Court should impose a third-tier penalty against Wilson and Black Diamond. First, third-tier penalties are appropriate because Respondents’ violations involved fraud and deceit and created “a significant risk of substantial losses” to potential clients. As described above in Part I, Respondents falsely represented to potential clients that Black Diamond managed over half a billion dollars, and later tens of millions of dollars, of assets and thereby conveyed that Black Diamond had significant success and stature in the industry. (OIP ¶¶ 9, 18, 27, 29, 33.) Had clients invested based on these misrepresentations, they stood to lose their investments given Black Diamond’s lack of experience

managing client assets. Respondents did not end up harming clients or benefiting financially from their violations only because the Division caught Respondents before they succeeded in obtaining clients. Given the need to deter Respondents from future violations—particularly given that Respondents will not pay disgorgement because they did not profit from their fraud—a third-tier civil penalty is warranted. *See, e.g., SEC v. Metcalf*, No. 11 Civ. 493 (CM), 2012 WL 5519358, at \*8 (S.D.N.Y. Nov. 13, 2012) (“[T]hird tier penalties have been imposed without regard to a defendant’s ability to pay and even when the defendant did not gain financially from his illegal activities.”) (imposing a third-tier civil penalty of \$50,000 on Commission’s motion for relief, after the parties had reached a partial consent judgment); *SEC v. Petros*, No. 3:10-CV-1178-M, 2013 WL 1091236, at \*7 (N.D. Tex. Mar. 1, 2013) (granting Commission’s motion for summary judgment on its fraud claim and imposing a third-tier penalty of \$25,000 where the defendant’s conduct had resulted in no investor losses).

### CONCLUSION

For these reasons, the Division respectfully requests that the Court grant its motion for sanctions and impose the sanctions requested.

DIVISION OF ENFORCEMENT

By:  \_\_\_\_\_

Preethi Krishnamurthy  
James K. Hanson  
Securities and Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street, Ste. 400  
New York, New York 10281  
Tel. (212) 336-0116 (Krishnamurthy)  
Fax. (212) 336-1319  
[KrishnamurthyP@sec.gov](mailto:KrishnamurthyP@sec.gov)  
[HansonJ@sec.gov](mailto:HansonJ@sec.gov)

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-18099

In the Matter of

BLACK DIAMOND ASSET  
MANAGEMENT LLC

and

ROBERT WILSON,

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the Division's Motion for Sanctions, dated October 19, 2017, on this 19<sup>th</sup> day of October, 2017, on the following by the means indicated:

Robert A. Wilson

██████████  
Calverton, NY ██████████

██████████@optonline.net

(By email and UPS)

Black Diamond Asset Management, LLC

77 Mastro Road

Calverton, NY 11933

(By UPS)

Brent Fields, Secretary

Office of the Secretary

U.S. Securities and Exchange Commission

100 F. Street, N.E.

Washington, D.C. 20549-2557

(By facsimile and UPS (original and three copies))

The Honorable James E. Grimes

Administrative Law Judge

U.S. Securities and Exchange Commission

100 F Street, N.E.

Washington, DC 20549-2557

alj@sec.gov

(By email)



Preethi Krishnamurthy  
Senior Trial Counsel



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
NORTHEAST REGIONAL OFFICE  
BROOKFIELD PLACE, 200 VESEY STREET, ROOM 4300  
NEW YORK, NEW YORK 10281-1022

WRITER'S DIRECT DIAL LINE  
(212) 336-0087

September 13, 2016

**VIA UPS**

Black Diamond Asset Management, LLC  
Robert Arthur Wilson  
[REDACTED]  
Calverton, NY [REDACTED]

Re: In the Matter of Black Diamond Asset Management, LLC (NY-9568-A)

Dear Mr. Wilson:

The staff of the Securities and Exchange Commission is conducting an investigation in the matter identified above. The enclosed subpoena has been issued to you as part of this investigation. The subpoena requires you to give us documents and to appear for investigative testimony.

Please read the subpoena and this letter carefully. This letter answers some questions you may have about the subpoena. You should also read the enclosed SEC Form 1662. You must comply with the subpoena. You may be subject to a fine and/or imprisonment if you do not.

**Producing Documents**

*What materials do I have to produce?*

The subpoena requires you to give us the documents described in the attachment to the subpoena. You must provide these documents by September 20, 2016. The attachment to the subpoena defines some terms (such as "document") before listing what you must provide.

Please note that if copies of a document differ in any way, they are considered separate documents and you must send each one. For example, if you have two copies of the same letter, but only one of them has handwritten notes on it, you must send both the clean copy and the one with notes.

If you prefer, you may send us photocopies of the originals. The Commission cannot reimburse you for the copying costs. The copies must be identical to the originals, including even faint marks or print. If you choose to send copies, you must keep the originals in a safe

place. The staff will accept the copies for now, but may require you to produce the originals later.

If you do send us photocopies, please put an identifying notation on each page of each document to indicate that it was produced by you, and number the pages of all the documents submitted. (For example, if Jane Doe sends documents to the staff, she may number the pages JD-1, JD-2, JD-3, etc., in a blank corner of the documents.) Please make sure the notation and number do not conceal any writing or marking on the document. If you send us originals, please do not add any identifying notations.

Copies of documents and information provided in electronic formats must comply with the technical requirements set out in the attached copy of the SEC's Data Delivery Standards. You should contact me prior to production in an electronic format other than those identified in the Data Delivery Standards.

*Do I need to send anything else?*

You should enclose a list briefly describing each item you send. The list should state which paragraph(s) in the subpoena attachment each item responds to.

Please include a cover letter stating whether you believe you have met your obligations under the subpoena by searching carefully and thoroughly for everything called for by the subpoena, and sending it all to us.

*What if I do not send everything described in the attachment to the subpoena?*

The subpoena requires you to send all the materials described in it. If, for any reason -- including a claim of attorney-client privilege -- you do not produce something called for by the subpoena, you should submit a list of what you are not producing. The list should describe each item separately, noting:

- its author(s);
- its date;
- its subject matter;
- the name of the person who has the item now, or the last person known to have it;
- the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents; and
- the reason you did not produce the item.

If you withhold anything on the basis of a claim of attorney-client privilege or attorney work product protection, you should also identify the attorney and client involved.

*Where should I send the materials?*

Please send the materials to:

Securities and Exchange Commission  
ENF-CPU, 100 F St., N.E., Mailstop 5973  
Washington, D.C. 20549-5973

If possible, please also send a set of the materials to:

James Hanson  
U.S. Securities and Exchange Commission  
Division of Enforcement  
Brookfield Place  
200 Vesey Street, Suite 400  
New York, NY 10281-1022

### **Testifying**

*Where and when do I testify?*

The subpoena requires you to come to the Commission's offices at 200 Vesey Street, Suite 400, New York NY 10281 on September 27, 2016 at 10:00 a.m., to testify under oath in the matter identified on the subpoena. Your testimony will be recorded by stenographic means.

### **Other Important Information**

*May I have a lawyer help me respond to the subpoena?*

Yes. You have the right to consult with and be represented by your own lawyer in this matter. We cannot give you legal advice.

*What will the Commission do with the materials I send and/or the testimony I provide?*

The enclosed SEC Form 1662 includes a List of Routine Uses of information provided to the Commission. This form has other important information for you. Please read it carefully.

*Has the Commission determined that anyone has done anything wrong?*

This investigation is a non-public, fact-finding inquiry. We are trying to determine whether there have been any violations of the federal securities laws. The investigation and the subpoena do not mean that we have concluded that you or anyone else has broken the law. Also, the investigation does not mean that we have a negative opinion of any person, entity or security.

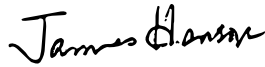
### **Important Policy Concerning Settlements**

Please note that, in any matter in which enforcement action is ultimately deemed to be warranted, the Division of Enforcement will not recommend any settlement to the Commission unless the party wishing to settle certifies, under penalty of perjury, that all documents responsive to Commission subpoenas and formal and informal document requests in this matter have been produced.

*I have read this letter, the subpoena, and the SEC Form 1662, but I still have questions. What should I do?*

If you have any other questions, you may call me at 212-336-0087. If you are represented by a lawyer, you should have your lawyer contact me.

Sincerely,

A handwritten signature in black ink that reads "James Hanson". The signature is written in a cursive style with a large initial "J".

James Hanson  
Senior Attorney

Enclosures: Subpoena  
SEC Form 1662





**SUBPOENA**

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

**In the Matter of Black Diamond Asset Management, LLC (NY-9568-A)**

To: Black Diamond Asset Management, LLC and  
Robert Arthur Wilson  
[REDACTED]  
Calverton, NY [REDACTED]

---

**YOU MUST PRODUCE** everything specified in the Attachment to this subpoena to officers of the Securities and Exchange Commission, at the place, date and time specified below:

*Securities and Exchange Commission, 3 World Financial Center, New York, N.Y. 10281 no later than September 20, 2016 at 5:00 p.m.*

---

**YOU MUST TESTIFY** before officers of the Securities and Exchange Commission, at the place, date and time specified below: *September 27, 2011 at 10:00 am., EST.*

---

**FEDERAL LAW REQUIRES YOU TO COMPLY WITH THIS SUBPOENA.**

Failure to comply may subject you to a fine and/or imprisonment.

By: James Hanson  
James Hanson  
Securities and Exchange Commission  
Brookfield Place, 200 Vesey Street  
Room 400  
New York, N.Y. 10281

Date: September 13, 2016

I am an officer of the Securities and Exchange Commission authorized to issue subpoenas in this matter. The Securities and Exchange Commission has issued a formal order authorizing this investigation under Section 20(a) of the Securities Act of 1933, Sections 21(a) and 21(b) of the Securities Exchange Act of 1934, and Section 209(a) of the Investment Advisers Act of 1940.

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**NOTICE TO WITNESS:** If you claim a witness fee or mileage, submit this subpoena with the claim voucher.

**ATTACHMENT TO SUBPOENA DUCES TECUM  
TO BLACK DIAMOND ASSET MANAGEMENT, LLC AND ROBERT WILSON**

**A. Definitions**

1. As used in this Attachment, "You" refers to Black Diamond Asset Management, LCC ("Black Diamond") and Robert Arthur Wilson ("Wilson") and/or any predecessor, successor, branch or subsidiary thereof, and any of their agents, representatives, officers, shareholders, partners or employees.

2. As used in this Attachment, the term "documents" means all records and other tangible forms of expression, originals, copies, or annotated copies, however created, produced, or stored (manually, mechanically, electronically, or otherwise), including, but not limited to, notes, memoranda, correspondence, or facsimile transmissions.

3. "Concerning" means directly or indirectly, in whole or in part, relating to, referring to, regarding, describing, evidencing, or constituting.

4. "And" means and/or.

5. "Or" means and/or.

6. "Any" means each and every.

7. "All" means each and every.

**B. Relevant Time Period**

Unless otherwise stated or indicated by a particular request, please produce all requested documents for the time period March 1, 2015 to the present.

**C. Documents Requested**

Please produce all of the documents listed below that are within your possession or custody or subject to your control:

1. All documents sufficient to identify any employee of Black Diamond or Wilson.

2. Documents sufficient to identify Black Diamond's bank accounts.

3. Documents sufficient to identify Black Diamond's securities accounts.

4. **All documents concerning Black Diamond's filings with the Securities and Exchange Commission including but not limited to its Form ADV filed with the Commission in March 2015.**
5. **All documents concerning Black Diamond's filings with the Securities and Exchange Commission including but not limited to its Form ADV filed with the Commission in March 2016.**
6. **Documents sufficient to verify the assets under management ("AUM") claimed by Black Diamond in its Form ADV filings with the Commission in March 2015.**
7. **Documents sufficient to verify the assets under management ("AUM") claimed by Black Diamond in its Form ADV filings with the Commission in March 2016.**
6. **Documents sufficient to verify whether Wilson has a Series 65 license.**

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**Supplemental Information for Persons Requested to Supply  
Information Voluntarily or Directed to Supply Information  
Pursuant to a Commission Subpoena**

**A. False Statements and Documents**

Section 1001 of Title 18 of the United States Code provides that fines and terms of imprisonment may be imposed upon:

[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; a
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or a
- (3) makes or uses any false writing or document knowing the same to contain any materially false, a fictitious, or fraudulent statement or entry. a

Section 1519 of Title 18 of the United States Code provides that fines and terms of imprisonment may be imposed upon:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States . . . or in relation to or contemplation of any such matter.

**B. Testimony**

If your testimony is taken, you should be aware of the following:

- 1.a *Record.* Your testimony will be transcribed by a reporter. If you desire to go off the record, please indicate this to the Commission employee taking your testimony, who will determine whether to grant your request. The reporter will not go off the record at your, or your counsel's, direction. a
- 2.a *Counsel.* You have the right to be accompanied, represented and advised by counsel of your choice. Your counsel may advise you before, during and after your testimony; question you briefly at the conclusion of your testimony to clarify any of the answers you give during testimony; and make summary notes during your testimony solely for your use. If you are accompanied by counsel, you may consult privately. a

If you are not accompanied by counsel, please advise the Commission employee taking your testimony if, during the testimony, you desire to be accompanied, represented and advised by counsel. Your testimony will be adjourned once to afford you the opportunity to arrange to be so accompanied, represented or advised.

You may be represented by counsel who also represents other persons involved in the Commission's investigation. This multiple representation, however, presents a potential conflict of interest if one client's interests are or may be adverse to another's. If you are represented by counsel who also represents other persons involved in the investigation, the Commission will assume that you and counsel have discussed and resolved all issues concerning possible conflicts of interest. The choice of counsel, and the responsibility for that choice, is yours.

- 3.a *Transcript Availability.* Rule 6 of the Commission's Rules Relating to Investigations, 17 CFR 203.6, states: a

A person who has submitted documentary evidence or testimony in a formal investigative proceeding a shall be entitled, upon written request, to procure a copy of his documentary evidence or a transcript of a his testimony on payment of the appropriate fees: *Provided, however,* That in a nonpublic formal a investigative proceeding the Commission may for good cause deny such request. In any event, any a witness, upon proper identification, shall have the right to inspect the official transcript of the witness's a own testimony. a

If you wish to purchase a copy of the transcript of your testimony, the reporter will provide you with a copy of the appropriate form. Persons requested to supply information voluntarily will be allowed the rights provided by this rule.

4. *Perjury.* Section 1621 of Title 18 of the United States Code provides that fines and terms of imprisonment may a be imposed upon: a

Whoever--

- (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of a the United States authorizes an oath to be administered, that he will testify, declare, depose, or certifica

truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) In any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true.

**5.a Fifth Amendment and Voluntary Testimony.** Information you give may be used against you in any federal, state, local or foreign administrative, civil or criminal proceeding brought by the Commission or any other agency.

You may refuse, in accordance with the rights guaranteed to you by the Fifth Amendment to the Constitution of the United States, to give any information that may tend to incriminate you.

If your testimony is not pursuant to subpoena, your appearance to testify is voluntary, you need not answer any question, and you may leave whenever you wish. Your cooperation is, however, appreciated.

**6.a Formal Order Availability.** If the Commission has issued a formal order of investigation, it will be shown to you during your testimony, at your request. If you desire a copy of the formal order, please make your request in writing.

#### **C.a Submissions and Settlements**

Rule 5(c) of the Commission's Rules on Informal and Other Procedures, 17 CFR 202.5(c), states:

Persons who become involved in . . . investigations may, on their own initiative, submit a written statement to the Commission setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the staff, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a staff recommendation to the Commission for the commencement of an administrative or injunction proceeding. Submissions by interested persons should be forwarded to the appropriate Division Director or Regional Director with a copy to the staff members conducting the investigation and should be clearly referenced to the specific investigation to which they relate. In the event a recommendation for the commencement of an enforcement proceeding is presented by the staff, any submissions by interested persons will be forwarded to the Commission in conjunction with the staff memorandum.

The staff of the Commission routinely seeks to introduce submissions made pursuant to Rule 5(c) as evidence in Commission enforcement proceedings, when the staff deems appropriate.

Rule 5(f) of the Commission's Rules on Informal and Other Procedures, 17 CFR 202.5(f), states:

In the course of the Commission's investigations, civil lawsuits, and administrative proceedings, the staff, with appropriate authorization, may discuss with persons involved the disposition of such matters by consent, by settlement, or in some other manner. It is the policy of the Commission, however, that the disposition of any such matter may not, expressly or impliedly, extend to any criminal charges that have been, or may be, brought against any such person or any recommendation with respect thereto. Accordingly, any person involved in an enforcement matter before the Commission who consents, or agrees to consent, to any judgment or order does so solely for the purpose of resolving the claims against him in that investigative, civil, or administrative matter and not for the purpose of resolving any criminal charges that have been, or might be, brought against him. This policy reflects the fact that neither the Commission nor its staff has the authority or responsibility for instituting, conducting, settling, or otherwise disposing of criminal proceedings. That authority and responsibility are vested in the Attorney General and representatives of the Department of Justice.

#### **D.a Freedom of Information Act**

The Freedom of Information Act, 5 U.S.C. 552 (the "FOIA"), generally provides for disclosure of information to the public. Rule 83 of the Commission's Rules on Information and Requests, 17 CFR 200.83, provides a procedure by which a person can make a written request that information submitted to the Commission not be disclosed under the FOIA. That rule states that no determination as to the validity of such a request will be made until a request for disclosure of the information under the FOIA is received. Accordingly, no response to a request that information not be disclosed under the FOIA is necessary or will be given until a request for disclosure under the FOIA is received. If you desire an acknowledgment of receipt of your written request that information not be disclosed under the FOIA, please provide a duplicate request, together with a stamped, self-addressed envelope.

#### **E. Authority for Solicitation of Information**

*Persons Directed to Supply Information Pursuant to Subpoena.* The authority for requiring production of information is set forth in the subpoena. Disclosure of the information to the Commission is mandatory, subject to the valid assertion of any legal right or privilege you might have.

*Persons Requested to Supply Information Voluntarily.* One or more of the following provisions authorizes the Commission to solicit the information requested: Sections 19 and/or 20 of the Securities Act of 1933; Section 21 of the Securities Exchange Act of 1934; Section 321 of the Trust Indenture Act of 1939; Section 42 of the Investment Company Act of 1940; Section 209 of the Investment Advisers Act of 1940; and 17 CFR 202.5. Disclosure of the requested information to the Commission is voluntary on your part.

#### **F. Effect of Not Supplying Information**

*Persons Directed to Supply Information Pursuant to Subpoena.* If you fail to comply with the subpoena, the Commission may seek a court order requiring you to do so. If such an order is obtained and you thereafter fail to supply the information, you may be subject to civil and/or criminal sanctions for contempt of court. In addition, Section 21(c) of the Securities Exchange Act of 1934, Section 42(c) of the Investment Company Act of 1940, and Section 209(c) of the Investment Advisers Act of 1940 provide that fines and terms of imprisonment may be imposed upon any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry, or to produce books, papers, correspondence, memoranda, and other records in compliance with the subpoena.

*Persons Requested to Supply Information Voluntarily.* There are no direct sanctions and thus no direct effects for failing to provide all or any part of the requested information.

#### **G. Principal Uses of Information**

The Commission's principal purpose in soliciting the information is to gather facts in order to determine whether any person has violated, is violating, or is about to violate any provision of the federal securities laws or rules for which the Commission has enforcement authority, such as rules of securities exchanges and the rules of the Municipal Securities Rulemaking Board. Facts developed may, however, constitute violations of other laws or rules. Information provided may be used in Commission and other agency enforcement proceedings. Unless the Commission or its staff explicitly agrees to the contrary in writing, you should not assume that the Commission or its staff acquiesces in, accedes to, or concurs or agrees with, any position, condition, request, reservation of right, understanding, or any other statement that purports, or may be deemed, to be or to reflect a limitation upon the Commission's receipt, use, disposition, transfer, or retention, in accordance with applicable law, of information provided.

#### **H. Routine Uses of Information**

The Commission often makes its files available to other governmental agencies, particularly United States Attorneys and state prosecutors. There is a likelihood that information supplied by you will be made available to such agencies where appropriate. Whether or not the Commission makes its files available to other governmental agencies is, in general, a confidential matter between the Commission and such other governmental agencies.

Set forth below is a list of the routine uses which may be made of the information furnished.

1. To appropriate agencies, entities, and persons when (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the SEC has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity, theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the SEC or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the SEC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.
2. To other federal, state, local, or foreign law enforcement agencies; securities self-regulatory organizations; and foreign financial regulatory authorities to assist in or coordinate regulatory or law enforcement activities with the SEC.
3. To national securities exchanges and national securities associations that are registered with the SEC, the Municipal Securities Rulemaking Board; the Securities Investor Protection Corporation; the Public Company Accounting Oversight Board; the federal banking authorities, including, but not limited to, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation; state securities regulatory agencies or organizations; or regulatory authorities of a foreign government in connection with their regulatory or enforcement responsibilities.
4. By SEC personnel for purposes of investigating possible violations of, or to conduct investigations authorized by, the federal securities laws.
5. In any proceeding where the federal securities laws are in issue or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity.

6.1 In connection with proceedings by the Commission pursuant to Rule 102(e) of its Rules of Practice, 17 CFR 201.102(e).1

7.1 To a bar association, state accountancy board, or other federal, state, local, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions (including the Public Company Accounting Oversight Board) for investigations or possible disciplinary action.1

8.1 To a federal, state, local, tribal, foreign, or international agency, if necessary to obtain information relevant to the SEC's decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit.1

9.1 To a federal, state, local, tribal, foreign, or international agency in response to its request for information concerning the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by that requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.1

10.1 To produce summary descriptive statistics and analytical studies, as a data source for management information, in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.1

11.1 To any trustee, receiver, master, special counsel, or other individual or entity that is appointed by a court of competent jurisdiction, or as a result of an agreement between the parties in connection with litigation or administrative proceedings involving allegations of violations of the federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)) or pursuant to the Commission's Rules of Practice, 17 CFR 201.100 - 900 or the Commission's Rules of Fair Fund and Disgorgement Plans, 17 CFR 201.1100-1106, or otherwise, where such trustee, receiver, master, special counsel, or other individual or entity is specifically designated to perform particular functions with respect to, or as a result of, the pending action or proceeding or in connection with the administration and enforcement by the Commission of the federal securities laws or the Commission's Rules of Practice or the Rules of Fair Fund and Disgorgement Plans.1

12.1 To any persons during the course of any inquiry, examination, or investigation conducted by the SEC's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.1

13.1 To interns, grantees, experts, contractors, and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs, including by performing clerical, stenographic, or data analysis functions, or by reproduction of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.1

14.1 In reports published by the Commission pursuant to authority granted in the federal securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)), which authority shall include, but not be limited to, section 21(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78u(a).1

15. To members of advisory committees that are created by the Commission or by Congress to render advice and recommendations to the Commission or to Congress, to be used solely in connection with their official designated functions.1

16.1 To any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 200.735-1 to 200.735-18, and who assists in the investigation by the Commission of possible violations of the federal securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the federal securities laws.1

17. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.1

18.1 To members of Congress, the press, and the public in response to inquiries relating to particular Registrants and their activities, and other matters under the Commission's jurisdiction.1

19.1 To prepare and publish information relating to violations of the federal securities laws as provided in 15 U.S.C. 78c(a)(47)), as amended.1

20.1 To respond to subpoenas in any litigation or other proceeding.1

21.1 To a trustee in bankruptcy.1

22.a To any governmental agency, governmental or private collection agent, consumer reporting agency or a commercial reporting agency, governmental or private employer of a debtor, or any other person, for collection, a including collection by administrative offset, federal salary offset, tax refund offset, or administrative wage a garnishment, of amounts owed as a result of Commission civil or administrative proceedings. a

\* \* \* \* \*

*Small Business Owners:* The SEC always welcomes comments on how it can better assist small businesses. If you would like more information, or have questions or comments about federal securities regulations as they affect small businesses, please contact the Office of Small Business Policy, in the SEC's Division of Corporation Finance, at 202-551-3460. If you would prefer to comment to someone outside of the SEC, you can contact the Small Business a Regulatory Enforcement Ombudsman at <http://www.sba.gov/ombudsman> or toll free at 888-REG-FAIR. The a Ombudsman's office receives comments from small businesses and annually evaluates federal agency enforcement a activities for their responsiveness to the special needs of small business. a





U.S. Securities and Exchange Commission

Data Delivery Standards

This document describes the technical requirements for paper and electronic document productions to the U.S. Securities and Exchange Commission (SEC). **\*\*Any questions or proposed file formats other than those described below must be discussed with the legal and technical staff of the SEC Division of Enforcement prior to submission.\*\***

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**General Instructions**

Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. (Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)

In the event produced files require the use of proprietary software not commonly found in the workplace, the SEC will explore other format options with the producing party.

The proposed use of file de-duplication methodologies or *computer-assisted review* or *technology-assisted review* (TAR) during the processing of documents must be discussed with and approved by the legal and technical staff of the Division of Enforcement (ENF). If your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production to the SEC.

General requirements for ALL document productions are:

- 1.a A cover letter should be included with each production and include the following:
  - a.a A list of each piece of media included in the production with its unique production volume number
  - b.a A list of custodians, identifying the Bates range for each custodian.
  - c.a The time zone in which the emails were standardized during conversion.
- 2.a Data can be produced on CD, DVD, thumb drive, etc., using the media requiring the least number of deliverables and labeled with the following:
  - a.a Case number
  - b.a Production date
  - c.a Producing party
  - d.a Bates range
- 3.a All submissions must be organized by custodian unless otherwise instructed.
- 4.a All document family groups, i.e. email attachments, embedded files, etc., should be produced together and children files should follow parent files sequentially in the Bates numbering.
5. All load-ready collections should include only one data load file and one image pointer file.
- 6.a All load-ready text must be produced as separate text files.
- 7.a All load-ready collections should account for custodians in the custodian field.
- 8.a Audio files should be separated from data files if both are included in the production.
- 9.a Only alphanumeric characters and the underscore character are permitted in file names and folder names. Special characters are not permitted.
- 10.a All electronic productions submitted on media must be produced using industry standard self-extracting encryption software.
- 11.a Electronic productions may be submitted via Secure File Transfer. The SEC cannot accept productions made using file sharing sites.
- 12.a Productions containing BSA or SARs material must be delivered on encrypted physical media. The SEC cannot accept electronic transmission of BSA or SARs material. Any BSA or SARs material produced should be segregated and appropriately marked as BSA or SARs material, or should be produced separately from other case related material.
13. Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately either via email or in a separate cover letter from the media.
14. All electronic productions should be produced free of computer viruses.
15. Additional technical descriptions can be found in the addendum to this document.

\*Please note that productions sent to the SEC via United States Postal Service are subject to Mail Irradiation, and as a result electronic productions may be damaged.\*

**Delivery Formats**

**1.a Concordance® Imaged Productions**

The SEC prefers that all documents and data be produced in a structured format prepared for Concordance. All scanned paper and electronic file collections should be converted to TIFF files, Bates numbered, and include fully searchable text files.

**1.a Images**

- a.a Black and white images must be 300 DPI Group IV single-page TIFF files.
- b.a Color images must be produced in JPEG format.
- c.a File names cannot contain embedded spaces or special characters (including the comma).
- d.a Folder names cannot contain embedded spaces or special characters (including the comma).
- e.a All TIFF image files must have a unique file name, i.e. Bates number.
- f.a Images must be endorsed with sequential Bates numbers in the lower right corner of each image.
- g.a The number of TIFF files per folder should not exceed 500 files.
- h.a Excel spreadsheets should have a placeholder image named by the Bates number of the file.
- i.a AUTOCAD/photograph files should be produced as a single page JPEG file.

**2.e Concordance Image® OR Opticon Cross-Reference File**

The image cross-reference file (.LOG or .OPT) links the images to the database records. It should be a comma-delimited file consisting of seven fields per line with a line in the cross-reference file for every image in the database with the following format:

*ImageID, VolumeLabel, ImageFilePath, DocumentBreak, FolderBreak, BoxBreak, PageCount*

**3.e Concordance® Data File**

The data file (.DAT) contains all of the fielded information that will be loaded into the Concordance® database.

- a.e The first line of the .DAT file must be a header row identifying the field names.
- b.e The .DAT file must use the following Concordance® default delimiters:
  - Comma , ASCII character (020)
  - Quote " ASCII character (254)
- c.e Date fields should be provided in the format: mm/dd/yyyy
- d.e Date and time fields must be two separate fields.
- e.e If the production includes imaged emails and attachments, the attachment fields must be included to preserve the parent/child relationship between an email and its attachments.
- f.e An OCRPATH field must be included to provide the file path and name of the extracted text file on the produced storage media. The text file must be named after the FIRSTBATES. Do not include the text in the .DAT file.
- g.e For productions with native files, a LINK field must be included to provide the file path and name of the native file on the produced storage media. The native file must be named after the FIRSTBATES.
- h.e BEGATTACH and ENDATTACH fields must be two separate fields.
- i.e A complete list of metadata fields is available in Addendum A to this document.

**4.e Text**

Text must be produced as separate text files, not as fields within the .DAT file. The full path to the text file (OCRPATH) should be included in the .DAT file. We require document level ANSI text files, named per the FIRSTBATES/Image Key. Please note in the cover letter if any non-ANSI text files are included in the production. Extracted text files must be in a separate folder, and the number of text files per folder should not exceed 1,000 files. There should be no special characters (including commas in the folder names). For redacted documents, provide the full text for the redacted version.

**5.e Linked Native Files**

Copies of original email and native file documents/attachments must be included for all electronic productions.

- a.e Native file documents must be named per the FIRSTBATES number.
- b.e The full path of the native file must be provided in the .DAT file for the LINK field.
- c.e The number of native files per folder should not exceed 1,000 files.

**II.e Native File Production without Load Files**

With prior approval, native files may be produced without load files. The native files must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. When approved, Outlook (.PST) and Lotus Notes (.NSF) email files may be produced in native file format. A separate folder should be provided for each custodian.

**III. Adobe PDF File Production**

With prior approval, Adobe PDF files may be produced in native file format.

- 1.e PDF files should be produced in separate folders named by the custodian. The folders should not contain any special characters (including commas).
- 2.e All PDFs must be unitized at the document level, i.e., each PDF must represent a discrete document.
- 3.e All PDF files must contain embedded text that includes all discernible words within the document, not selected text or image only. This requires all layers of the PDF to be flattened first.
- 4.e If PDF files are Bates endorsed, the PDF files must be named by the Bates range.

#### IV. Audio Files

Audio files from telephone recording systems must be produced in a format that is playable using Microsoft Windows Media Player™. Additionally, the call information (metadata) related to each audio recording MUST be provided. The metadata file must be produced in a delimited text format. Field names must be included in the first row of the text file.

The metadata must include, at a minimum, the following fields:

- |                        |                                                |
|------------------------|------------------------------------------------|
| 1) Caller Name:        | Caller's name or account/identification number |
| 2) Originating Number: | Caller's phone number                          |
| 3) Called Party Name:  | Called party's name                            |
| 4) Terminating Number: | Called party's phone number                    |
| 5) Date:               | Date of call                                   |
| 6) Time:               | Time of call                                   |
| 7) Filename:           | Filename of audio file                         |

#### V. Video Files

Video files must be produced in a format that is playable using Microsoft Windows Media Player™.

#### VI. Electronic Trade and Bank Records

When producing electronic trade and bank records, provide the files in one of the following formats:

1. MS Excel spreadsheet with header information detailing the field structure. If any special codes exist in the dataset, a separate document must be provided that details all such codes. If details of the field structure do not fit in the header, a separate document must be provided that includes such details.
2. Delimited text file with header information detailing the field structure. The preferred delimiter is a vertical bar "|". If any special codes exist in the dataset, a separate document must be provided that details all such codes. If details of the field structure do not fit in the header, a separate document must be provided that includes such details.

#### VII. Electronic Phone Records

When producing electronic phone records, provide the files in the following format:

1. MS Excel spreadsheet with header information detailing the field structure. If any special codes exist in the dataset, a separate document must be provided that details all such codes. If details of the field structure do not fit in the header, a separate document must be provided that includes such details. Data must be formatted in its native format (i.e. dates in a date format, numbers in an appropriate numerical format, and numbers with leading zeroes as text).
  - a. The metadata that must be included is outlined in Addendum B of this document. Each field of data must be loaded into a separate column. For example, Date and Start\_Time must be produced in separate columns and not combined into a single column containing both pieces of information. Any fields of data that are provided in addition to those listed in Addendum B must also be loaded into separate columns.

#### VIII. Audit Workpapers

The SEC prefers for workpapers to be produced in two formats: (1) With Bates numbers in accordance with the SEC Data Delivery Standards; and (2) in native format or if proprietary software was used, on a standalone laptop with the appropriate software loaded so that the workpapers may be reviewed as they would have been maintained in the ordinary course of business. When possible, the laptop should be configured to enable a Virtual Machine (VM) environment.

**ADDENDUM A**

The metadata of electronic document collections should be extracted and provided in a .DAT file using the field definition and formatting described below:

Field Name	Sample Data	Description
FIRSTBATES	EDC0000001	First Bates number of native file document/email
LASTBATES	EDC0000001	Last Bates number of native file document/email **The LASTBATES field should be populated a for single page documents/emails.a
ATTACHRANGE	EDC0000001 - EDC0000015	Bates number of the first page of the parent document to the Bates number of the last page of the last attachment "child" document
BEGATTACH	EDC0000001	First Bates number of attachment range
ENDATTACH	EDC0000015	Last Bates number of attachment range
PARENT_BATES	EDC0000001	First Bates number of parent document/Email **This PARENT_BATES field should be populated a in each record representing an attachment "child" a documenta
CHILD_BATES	EDC0000002; EDC0000014	First Bates number of "child" attachment(s): can be more than one Bates number listed depending on the number of attachmentsa **The CHILD_BATES field should be populated in a each record representing a "parent" documenta
CUSTODIAN	Smith, John	Email: Mailbox where the email resided Native: Name of the individual or department from whose files the document originated
FROM	John Smith	Email: Sender Native: Author(s) of document **semi-colon should be used to separate multiple a entriesa
TO	Coffman, Janice; LeeW [mailto:LeeW@MSN.com]	Recipient(s) **semi-colon should be used to separate multiple a entriesa
CC	Frank Thompson [mailto:frank_Thompson@cdt.com]	Carbon copy recipient(s) **semi-colon should be used to separate multiple a entriesa
BCC	John Cain	Blind carbon copy recipient(s) **semi-colon should be used to separate multiple a entriesa
SUBJECT	Board Meeting Minutes	Email: Subject line of the email Native: Title of document (if available)
FILE_NAME	BoardMeetingMinutes.docx	Native: Name of the original native file, including extension
DATE_SENT	10/12/2010	Email: Date the email was sent Native: (empty)
TIME_SENT/TIME_ZONE	07:05 PMaGMT	Email: Time the email was sent/ Time zone in which the emails were standardized during conversion. Native: (empty) **This data must be a separate field and cannot be combined with the DATE_SENT field
TIME_ZONE	GMT	The time zone in which the emails were standardized during conversion. Email: Time zone Native: (empty)

U.S. Securities and Exchange Commission  
Data Delivery Standards

LINK	D:\001\EDC0000001.msg	Hyperlink to the email or native file document **The linked file must be named per the FIRSTBATES number
MIME_TYPE	MSG	The content type of an Email or native file document as identified/extracted from the header
FILE_EXTEN	MSG	The file type extension representing the Email or native file document; will vary depending on the email format
AUTHOR	John Smith	Email: (empty) Native: Author of the document
DATE_CREATED	10/10/2010	Email: (empty) Native: Date the document was created
TIME_CREATED	10:25 AM	Email: (empty) Native: Time the document was created **This data must be a separate field and cannot be combined with the DATE_CREATED field
DATE_MOD	10/12/2010	Email: (empty) Native: Date the document was last modified
TIME_MOD	07:00 PM	Email: (empty) Native: Time the document was last modified **This data must be a separate field and cannot be combined with the DATE_MOD field
DATE_ACCESSD	10/12/2010	Email: (empty) Native: Date the document was last accessed
TIME_ACCESSD	07:00 PM	Email: (empty) Native: Time the document was last accessed **This data must be a separate field and cannot be combined with the DATE_ACCESSD field
PRINTED_DATE	10/12/2010	Email: (empty) <sup>e</sup> Native: Date the document was last printed
FILE_SIZE	5.952e	Size of native file document/email in KBe
PGCOUNT	1e	Number of pages in native file document/emaile
PATH	J:\Shared\Smith\October Agenda.docx	Email: (empty) Native: Path where native file document was stored including original file name.e
INTFILEPATH	Personal Folders\Deleted Items\Board Meeting Minutes.msg	Email: original location of email including original file name.e Native: (empty)
INTMSGID	<000805c2c7&b\$75977050\$cb8306d1@MSN>	Email: Unique Message ID Native: (empty) <sup>e</sup>
MDSHASH	d131dd02c5e6ccc4693d9a0698aff95c2fcab58712467eab4004583eb8fb7f89	MD5 Hash value of the document.e
OCRPATH	TEXT/001/EDC0000001.txt	Path to extracted text of the native file

Sample Image Cross-Reference File:

```

IMG0000001,,E:\001\IMG0000001.TIF,Y,,p
IMG0000002,,E:\001\IMG0000002.TIF,,,,
IMG0000003,,E:\001\IMG0000003.TIF,,,,
IMG0000004,,E:\001\IMG0000004.TIF,Y,,,
IMG0000005,,E:\001\IMG0000005.TIF,Y,,,
IMG0000006,,E:\001\IMG0000006.TIF,,,,

```

**ADDENDUM B**

For Electronic Phone Records, include the following fields in separate columns:

For Calls:

- 1)e Account Numbere
- 2)e Connection Date – Date the call was received or madee
- 3)e Connection Time – Time call was received or madee
- 4)e Seizure Time – Time it took for the call to be placed in secondse
- 5)e Originating Number – Phone that placed the calle
- 6)e Terminating Number – Phone that received the calle
- 7)e Elapsed Time – The length of time the call lasted, preferably in secondse
- 8)e End Time – The time the call endede
- 9)e Number Dialed – Actual number dialede
- 10) IMEI Originating – Unique id to phone used to make calle
- 11) IMEI Terminating– Unique id to phone used to receive calle
- 12)eIMSI Originating – Unique id to phone used to make calle
- 13)eIMSI Terminating- Unique id to phone used to receive calle
- 14)eCall Codes – Identify call direction or other routing informatione
- 15) Time Zone – Time Zone in which the call was received or placed, if applicablee

For Text messages:

- 1)e Account Numbere
- 2)e Connection Date – Date the text was received or madee
- 3)e Connection Time – Time text was received or madee
- 4)e Originating Number – Who placed the texte
- 5)e Terminating Number – Who received the texte
- 6)e IMEI Originating – Unique id to phone used to make texte
- 7)e IMEI Terminating– Unique id to phone used to roccive texte
- 8)e IMSI Originating - Unique id to phone used to make texte
- 9)e IMSI Terminating- Unique id to phone used to receive texte
- 10)eText Code – Identify text direction, or other text routing informatione
- 11)eText Type Code – Type of text message (sent SMS, MMS, or other)e
- 12)eTime Zone – Time Zone in which the call was received or placed, if applicablee

For Mobile Data Usage:

- 1)e Account Numbere
- 2)e Connection Date – Date the data was received or madee
- 3)e Connection Time – Time data was received or madee
- 4)e Originating number – Number that used datae
- 5)e IMEI Originating – Unique id of phone that used datae
- 6)e IMSI Originating - Unique id of phone that used datae
- 7)e Data or Data codes – Identify data direction, or other data routing informatione
- 8)e Time Zone – Time Zone in which the call was received or placed, if applicablee

UPS CampusShip: View/Print Label

1.e Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.e

2.e Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.e

3. GETTING YOUR SHIPMENT TO UPS

Customers with a Daily Pickup

Your driver will pickup your shipment(s) as usual.e

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot® or Staples®) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.e

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.

Hand the package to any UPS driver in your area.

UPS Access Point™  
THE UPS STORE  
14 MURRAY ST  
NEW YORK ,NY 10007

UPS Access Point™  
THE UPS STORE  
82 NASSAU ST  
NEW YORK ,NY 10038

UPS Access Point™  
THE UPS STORE  
71 BROADWAY  
NEW YORK ,NY 10006

FOLD HERE

1.0 LBS LTR 1 OF 1

JAMES HANSON  
212369106  
SEC-NY REGIONAL  
200 VERSEY STREET  
NEW YORK NY 10281 1022

SHIP TO:  
ROBERT ARTHUR WILSON  
BLACK DIAMOND ASSET MANAGEMENT LLC  
CALVERTON NY

NY 117 0-09

UPS NEXT DAY AIR 1

TRACKING #: 1Z 88R 5V4 01 9824 1302

BILLING: P/P

Reference #1: NY 9508

US 10 5 3V WNTM00 76 0A07/0010



Black Diamond Asset Management, LLC

September 16, 2016

James Hanson  
U.S. Securities & Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street, Suite 400  
New York, NY 10281-1022

RE: NY-9568-A

Dear Mr. Hanson

Let me start by informing you that the 9<sup>th</sup> Amendment of the United States Constitution is still invoked. You do not have any authorization to issue any subpoena as the 33, 34 and 40 Acts do not override the United States Constitution as clearly stated by the Framers in Federalist 78, the defining papers of their intent in the development of the Constitution, only a fool would think otherwise. In fact, the Framers made this statement in paragraph 11 **IT IS NOT OTHERWISE TO BE SUPPOSED, THAT THE CONSTITUTION COULD INTEND TO ENABLE THE REPRESENTATIVES OF THE PEOPLE TO SUBSTITUTE THEIR WILL TO THAT OF THEIR CONSTITUENTS.** This means once I withdraw my consent you have no just powers as stated in this sentence from the 2<sup>nd</sup> paragraph of the Declaration of Independence **That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the Governed, that whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it.** Since this paragraph is incorporated into the Constitution by the 9<sup>th</sup> Amendment and is recognized as a right of the people by the Framers in Federalist 78 paragraph 17 that states a **fundamental principle of republican government, admits the right of the people to alter or abolish.** And in paragraph 11 **the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.** And in paragraph 12 **Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. IT ONLY SUPPOSES THAT THE POWER OF THE PEOPLE IS SUPERIOR TO BOTH; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the constitution, the judges ought to be governed by the latter rather than the former.** So with all of this evidence stated from the Constitution and the defining papers of the Constitution only a fool would believe they are authorized to do anything after they have clearly stated that they were informed on July 27, 2016 of this citizen invocation of his rights under the Declaration of Independence, the foundational principle of the United States revolution, the US Constitution and the recognition by the Constitutional Congress as fundamental principle of our government. The Constitution is the only law in this country as it is fundamental law, not statutory law if you were able to override the decision of the People who the Framers made clear is superior to all of the People's servants the law would be worthless and we the People would have no ability to stop tyranny in government. Paragraph 14 states the following **but in regard to the interfering acts of a superior and subordinate authority, of an original and derivative power, the nature and reason of the thing indicate**

██████████, Calverton, New York ██████████

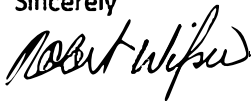
██████████  
Robert@blackdiamondfinancialholdings.net  
Blackdiamondfinancialholdings.com

Black Diamond Asset Management, LLC

**the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that accordingly, whenever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former.** Just because you think a statute overrides the Constitution, it does not. Your statements are more than foolish they are purely stupid.

Add to the fact that People are the Government not you or any other servant of the People. Trying to impose your will over that of the People is an attempted to over throw the Government of the United States better known as Treason. In addition, paragraph 10 states **No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.** Add to this the fact that you send me a subpoena for items you already have in your position and if you had read them you would have not one thing to investigate you have willfully violate my 14<sup>th</sup> Amendment Rights of equal protection under the law of the US Constitution. You need to resign and move out of the Country and the same goes for any other person including themselves in this Gestapo witch hunt. It is my right to confront you when you lie and bring false accusation against me so stop the retaliation because I am making your little boy ass behave. You do not scare me in the least bit and I will not be bully, like you try with others. Remember this Jefferson stated that "When the people fear their government, there is tyranny; when the government fears the people, there is liberty."

Sincerely



Robert Wilson, Managing Member

██████████, Calverton, New York ██████ 3

██████████ 5

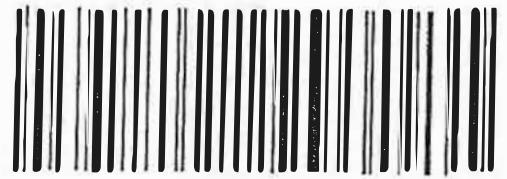
Robert@blackdiamondfinancialholdings.net  
Blackdiamondfincialholdings.com

CRITICAL MAIL

Crifventaw, NY

CRITICAL MAIL

RETURN RECEIPT  
REQUESTED

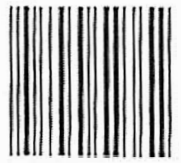


7015 0640 0001 4598 7856

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SEP 28 2016  
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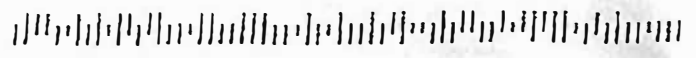
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James Hanson  
U.S. Securities & Exchange Commission  
New York Regional Office  
Brookfield Place 200 Vesey Street, Suite 400  
New York, NY 10281-1022

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THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of: )  
 ) File No. NY-09568-A  
BLACK DIAMOND ASSET MANAGEMENT, LLC )

WITNESS: Robert Wilson

PAGES: 1 through 85

PLACE: Securities and Exchange Commission  
200 Vesey Street, Suite 400  
New York, New York 10281

Date: Tuesday, September 27, 2016

The above entitled matter came on for hearing,  
pursuant to notice, at 10:40 a.m.

 **COPY**

Diversified Reporting Services, Inc.

(202) 467-9200

1 APPEARANCES:

2

3 On behalf of the Securities and Exchange Commission:

4

JAMES HANSON, ESQ.

5

GERALD A. GROSS, ESQ.

6

Securities and Exchange Commission

7

Division of Enforcement

8

200 Vesey Street - Suite 400

9

New York, New York 10285

10

11 On behalf of the Witness:

12

ROBERT WILSON, PRO SE

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C O N T E N T S

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WITNESS

Robert Wilson

EXAMINATION

4

EXHIBIT

DESCRIPTION

IDENTIFIED

1

Form 1662

4

2

Subpoena

4

3

Letter from exam staff

18

4

List

71

1 PROCEEDINGS

2 (Whereupon, Commission Form 1662  
3 was premarked as Commission Exhibit 1  
4 for identification.)

5 (Whereupon, Subpoena was  
6 premarked as Commission Exhibit 2 for  
7 identification.)

8 Whereupon,

9 ROBERT WILSON

10 was called as a witness and was examined and testified  
11 as follows:

12 EXAMINATION

13 Q We're on the record at 10:40 a.m. on September 27,  
14 2016, in the matter of Black Diamond Asset Management, LLC  
15 NY No. 9568. I'm James Hanson. This is Gerald Gross. We  
16 are both officers of the Securities and Exchange Commission  
17 for the purposes of this proceeding.

18 This is an investigation by the U.S. Securities  
19 Exchange Commission in the matter of Black Diamond Asset  
20 Management to determine whether there have been violations  
21 of certain provisions of the Federal Securities Laws,  
22 however, the facts developed in this investigation might  
23 constitute violations of other federal or state, civil or  
24 criminal laws.

25 Mr. Wilson, I'm handing you what's been marked as

1       **Exhibit 1 in this matter. Are you familiar with that**  
2       **document?**

3           A     No.

4           Q     That is the Commissions Form 1662, which was  
5       **attached to the Subpoena that we sent you. We'll get into**  
6       **that in a moment.**

7                   I'm also handing you a copy of what's been  
8       **previously marked as Exhibit 2, which is the Subpoena that**  
9       **was sent to you on the 13th of September. Are you familiar**  
10       **with that?**

11           A     Yes, it was fraudulent because of the Ninth  
12       Amendment being invoked by the United States Constitution,  
13       which takes away all authority of these two pieces of  
14       garbage, because this is retaliation because of the fact  
15       that I made a complaint about the First Lady of the United  
16       States of America, Michelle Obama, and a fraudulent deal  
17       that she's involved in with a group in Atlanta and her  
18       former chef at the White House, and against Mary Joe White,  
19       the head of the Securities and Exchange Commission, which I  
20       have e-mails.

21           Q     Just so you know, Mr. Wilson, I'm not here to  
22       **discuss any of that today.**

23           A     I don't care what you're here to discuss. It's  
24       going on the record so everybody knows what you're doing.

25           Q     While you're here, I'm going to give you a copy of



1 the Commission's formal letter of investigation in this  
2 matter, which is the document that provides us with the  
3 legal authority --

4 A You don't have legal authority. The Ninth  
5 Amendment takes your legal authority away, so you can keep  
6 that document, because it's worthless.

7 Q Well, regardless of your opinion about that, Mr.  
8 Wilson --

9 A I don't care what your opinion is.

10 Q The document is available for your inspection  
11 during the testimony today, in case you want to --

12 A You don't have a legal right to be here today.  
13 You are a traitor.

14 Q So now I provided you with a copy of the formal  
15 investigation in this matter, which will be available for  
16 your examination --

17 A A formal crime by you.

18 Q During the course of this proceeding -- the  
19 Commission --

20 A The Commission has no authority once the Ninth  
21 Amendment has been invoked. That is what the United States  
22 was founded on. It's the foundation of the Revolutionary  
23 War.

24 Q Mr. Wilson, I think that we can probably take it  
25 as given that you have the position you've articulated with

1       **respect to the Ninth Amendment, so let's just move on.**

2           A     No, every time you say something, I am going to  
3     invoke that, because you are committing a crime, so every  
4     time you open your mouth, you are committing a crime, and  
5     it's called treason.

6           Q     Well, let's just --

7           A     You don't have the authority to impose your will  
8     of the people, which is the Constitution.

9           Q     Granted that you have that opinion or belief --

10          A     It's no opinion. It's stated right in the  
11     Constitution. Can't you read? Are you illiterate? Are  
12     you incapable of doing this job, because you're illiterate?

13          Q     May I remind you that the Commission is asking the  
14     questions today, not you.

15          A     May I remind you, you don't have any authority.  
16     May I remind you that in the Revolutionary War, what Sam  
17     Adams did in Massachusetts was supported by that statement,  
18     by that belief, and that's the foundation of this nation.  
19     I fought for that.

20               MR. GROSS: You're disturbing.

21               THE WITNESS: Well, you're  
22     disturbing me. You make me come  
23     here, stole my money that I had to  
24     pay to come in here. You're nothing  
25     but a group of treasonists. You're

1 liars and thieves, and that's all you  
2 are. Whenever you're provided with  
3 real evidence of a real crime, you do  
4 nothing.

5 Q So Mr. Wilson, have you had an opportunity to  
6 review the Commission's Form 1662, which has been made  
7 available to you this morning and was attached to the  
8 Subpoena?

9 A No, I haven't.

10 MR. GROSS: Please do so.

11 THE WITNESS: No.

12 Q Please take an opportunity to look at it, because  
13 it does govern the uses to which we can put any information  
14 --

15 A You have no authority. You have no authority.

16 Q That's rather repetitive, sir. Let's just move  
17 on.

18 A Let's not. Let's you stop committing treason  
19 here, boy.

20 Q Sir?

21 A Shut up. You're a servant to the people. You  
22 keep your mouth shut.

23 Q Do you have any questions regarding the notice  
24 that was provided to you?

25 A I told you it is illegal and fraudulent, as you

1 are.

2 Q Mr. Wilson, are you accompanied by an attorney  
3 here today?

4 A No, I'm not. I don't need one. You don't have  
5 any authority.

6 Q Nonetheless, I am required by our procedures to  
7 give you the following advice about that: You have the  
8 right to be accompanied, represented and advised by counsel.  
9 This means that you have the right to have an attorney  
10 present, and that your attorney can advise you before,  
11 during or after your examination here today. Do you  
12 understand that?

13 A I understand that, but you have no legal authority  
14 here today.

15 Q Since you're not represented --

16 A Anything that is said here today is not legally  
17 binding, because of the fact that he has violated the  
18 Constitution of United States of America and the treasonist  
19 does not want to accept that.

20 Q Since you're not represented by counsel, there are  
21 certain matters that are discussed in Exhibit 1 that I want  
22 to highlight for you.

23 A The treasonist does not have the right, and he  
24 needs to keep his mouth shut.

25 Q So I'll ask my next question: Do you understand

1       that upon your request, these proceedings will be adjourned,  
2       so you may obtain counsel, if you wish?

3             A     Do you understand that you have committed treason?

4             Q     My next question --

5             A     Do you understand that you've committed treason?  
6       I am a citizen of United States, which gives me authority  
7       over you at all times. The frames of the Constitution made  
8       that perfectly clear in Federalist 78, but it seems that  
9       you do not like to follow the Constitution, the only law in  
10       this nation. Your statutes mean nothing to the  
11       Constitution. You have violated the Constitution. Do you  
12       understand that?

13            Q     Do you, sir?

14            A     I'm ordering you to answer that question as your  
15       boss as a citizen of the United States.

16            Q     I, sir, am asking the questions today.

17            A     No, you are not.

18            Q     Do you understand --

19            A     At all times, the citizen has control over the  
20       people that are employed by the citizens.

21            Q     Perhaps the citizen can consider answering my next  
22       question.

23            A     No, perhaps you can consider following the law.

24            Q     The statute set forth in Exhibit 1 --

25            A     The statute means nothing, because it's with my

1 consent to be governed by you has been withdrawn, and you  
2 knew that before you sent the Subpoena.

3 Q It might possibly be important for you to know --

4 A It might be important for you to know that the  
5 citizens have the right to try you for treason.

6 Q Do you understand that --

7 A Do you understand that you are committing treason?

8 MR. GROSS: Can I say something  
9 for a minute here? Please -- can you  
10 please not yell?

11 THE WITNESS: No, I will yell as  
12 long as you bastards continue to  
13 commit treason.

14 Q Mr. Wilson --

15 MR. GROSS: This will not work  
16 if you continue to yell at the top of  
17 your voice and if you keep  
18 interrupting the staff. We'll let  
19 you give whatever statements you want  
20 to make, but this court reporter  
21 can't record --

22 THE WITNESS: Too bad. You  
23 don't have the right to hold this  
24 proceeding. Why can't you get that  
25 through your head? It is the right

1 of the citizens now to try you for  
2 treason. Why can't you get that  
3 through your head? You lied about  
4 everything. The letter they sent me  
5 was a lie, then you retaliated  
6 because I wouldn't be pushed around  
7 by you bullies, like everybody else.  
8 I don't kiss your ass. I don't kiss  
9 anybody's ass.

10 MR. GROSS: I take it you'll  
11 continue to yell.

12 THE WITNESS: I will.

13 MR. GROSS: And you'll continue  
14 to interrupt.

15 THE WITNESS: That's right,  
16 because I am the person that governs  
17 this, because I am the citizen, and  
18 as Federalist 78 states, the citizen  
19 has control over the representative  
20 at all times, and the representative  
21 does as they are told by the citizen.

22 Q So now we understand that that's your position.

23 Do you understand that you may assert your rights  
24 under the Fifth Amendment of the Constitution and refuse to  
25 answer any question which may intend to incriminate you?

1           A     I've already given my answer.

2           Q     All right. I must have missed it in the ongoing  
3 discussion.

4                     There's a copy of the Subpoena that was sent to  
5 you on September 13th.

6           A     It's illegal. You're a criminal. You're a con  
7 artist. You are retaliating because of the fact that I  
8 don't tolerate you or any of the criminals that are in the  
9 government, especially your boss, Mary Joe White, who is  
10 running a scam.

11          Q     Mr. Wilson, are you appearing here today because I  
12 sent you that Subpoena?

13          A     No, I'm appearing here today because you committed  
14 a crime.

15          Q     Okay. So now Mr. Wilson, the Subpoena called for  
16 the production of certain documents. The due date for that  
17 was September 20th.

18          A     You got them.

19          Q     We didn't receive any documents from you.

20          A     You have everything that you asked for. I can't  
21 help it that you can't read.

22          Q     So your position is that you have tendered to the  
23 staff already all the documents that are called for by the  
24 Subpoena; is that correct?

25          A     That's correct.



1           Q     Okay. Would you please describe the search that  
2 you conducted for the Subpoenaed documents?

3           A     I went on my computer and printed them out. I  
4 sent them to the auditors beforehand. They had everything  
5 that was there. The Subpoena is bogus. It is not  
6 enforceable by the law.

7           MR. GROSS: Did you send any  
8 documents since you received a copy  
9 of the Subpoena?

10          THE WITNESS: No, I did not,  
11 because everything that was asked for  
12 in the Subpoena is already here.

13          Q     Okay. So you're stating that you conducted the  
14 search personally, right?

15          A     Yes.

16          Q     Did you withhold any documents called for by the  
17 Subpoena based on any kind of privilege?

18          A     I withheld documents because I couldn't get a hold  
19 of them until yesterday.

20          Q     Okay. So do you know of other documents that are  
21 responsive to the Subpoena that were not provided that were  
22 lost, destroyed or otherwise disposed of?

23          A     No, everything you asked for in the Subpoena was  
24 provided. I just have additional documents with me that  
25 show that your investigators are liars. They accused me of

1 lying on the stuff I told and explained to them how it was,  
2 and they would not listen, and that's why I'm so angry,  
3 because the SEC never listens.

4 Q So did you bring those documents --

5 A Yes, I did.

6 Q Can I take them now?

7 A Yes.

8 MR. HANSON: Let the record  
9 reflect that Mr. Wilson has provided  
10 one --

11 A I have more.

12 Q He has additional documents.

13 A Here's seven letters notarized from the people I  
14 was told I wasn't managing their assets stating that I was.

15 MR. HANSON: So Mr. Wilson has  
16 provided some correspondence.

17 A Here's documentation that there was accounts at  
18 the time, but because of the bullshit rule on the stocks  
19 under \$5, I couldn't get the stocks deposited after they  
20 promised that they would.

21 Q I think in order to make sense of that statement,  
22 we need to back up a little bit. Is that okay, just to get  
23 some context about that, so we can understand why you're  
24 saying what you're saying? All right?

25 A Okay.

1 Q We're here to talk about Black Diamond Asset  
2 Management, LLC. Okay?

3 A Mm-hmm.

4 Q Now are you familiar with that entity?

5 A Yes.

6 Q What is it?

7 A It's a registered investment adviser limited  
8 liability company.

9 Q Okay. And who controls it?

10 A Me.

11 Q All right. Did Black Diamond Asset Management  
12 make any filings with the SEC at any time?

13 A Yes.

14 Q What filings did it make?

15 A It made the 80-V filing, Form 80-V.

16 Q Do you remember how many, by any chance?

17 A I think with the SEC, two.

18 Q With respect to those filings, who was responsible

19 --

20 A Me.

21 Q You're responsible for the content of those files?

22 A Yes.

23 Q Did anybody else help you with the files?

24 A No.

25 Q Did anybody else provide any of the content for

1 the files?

2 A No.

3 Q Let me just ask another question about that.

4 Black Diamond also has a website on the internet,  
5 correct?

6 A Yes.

7 Q Who is responsible for the content of that?

8 A I had somebody build that site for me.

9 Q As a website on the internet, you had a web  
10 designer assist you with that part, that process?

11 A Yes.

12 Q And who is that individual?

13 A It's a company in Canada called Advisor Sites.

14 Q Did that company have anything to do with the  
15 actual substance of what was put up on the website?

16 A I provided it to them, and they were supposed to  
17 have their attorneys look at it and make sure that it was  
18 all legal.

19 Q Okay. So they reviewed it for legal form?

20 A Yes.

21 Q So then in terms of statements that are made about  
22 the nature of the business, for instance, are those  
23 statements based on information that you provided?

24 A They're based on information I provided, yes.

25 Q Okay. So was there anybody else involved in the

Exs. 4 & 7  
Black Diamond Asset Mgmt. LLC &  
Robert Wilson, AP File No. 3-18099  
Division Motion for Sanctions  
10.19.2017

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
NEW YORK REGIONAL OFFICE  
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400  
NEW YORK, NEW YORK 10281-1022

PREETHI KRISHNAMURTHY  
(212) 336-0116  
krishnamurthyp@sec.gov

August 28, 2017

**By Email and Overnight Delivery**

Robert A. Wilson and Black Diamond Asset Management, LLC

██████████  
Calverton, NY ██████████

Email: ██████████@optonline.net

*Re: In the Matter of Black Diamond Asset Management LLC and Robert Wilson  
(A.P. File No. 3-18099)*

Dear Mr. Wilson and Black Diamond Asset Management LLC:

On behalf of the Securities and Exchange Commission's Division of Enforcement (the "Division") in the administrative proceeding named above, I write concerning Administrative Law Judge James E. Grimes' enclosed Order Postponing Hearing and Scheduling Prehearing Conference (the "Conference Order"), dated August 11, 2017. The Conference Order has scheduled a pre-hearing phone conference between Judge Grimes and the parties—the Division, Respondent Black Diamond Asset Management LLC ("Black Diamond"), and Respondent Robert Wilson—on September 7, 2017, at 11:00 a.m. The Conference Order requires the parties to confer, on or before September 5, 2017, about the hearing date and location, a pre-hearing schedule, and other matters, so that the parties can submit a joint letter on these issues to Judge Grimes by September 5, before the conference.

The Division understands that the Commission served Mr. Wilson personally on August 25, 2017 with its order instituting administrative and cease-and-desist proceedings, dated August 4, 2017, through a process server, under Commission Rule of Practice 141(a)(2)(i). The Division also understands that the Commission served Black Diamond on August 7, 2017, by "sending a copy of the order addressed to the most recent business address shown" on Black Diamond's Form ADV by certified mail and "obtaining a confirmation of attempted delivery" that day under Commission Rule of Practice 141(a)(2)(iii). The Division has already produced its non-privileged investigative file by sending a copy of the documents on disk to Mr. Wilson by overnight delivery on August 10, 2017. (Indeed the Division received a voicemail from Mr. Wilson on August 11, 2017 that, while threatening a lawsuit against Division counsel for "treason" under the U.S. Constitution's Ninth Amendment, appears to acknowledge the receipt of those documents by warning the Division: "Do not ever send me another document.")

The Division believes that the parties need no more than five months to prepare for the hearing, including for any fact witness depositions under Commission Rule of Practice 233. The Division does not anticipate any need for expert witnesses in this matter. The Commission therefore proposes that the hearing begin in New York, New York no later than Monday, February 12, 2018, given Judge Grimes' unavailability from February 20 through March 9, 2018. The Division proposes that the parties exchange witness and exhibit lists and copies of exhibits approximately four weeks before the hearing, on Tuesday, January 16, 2018; that the parties file pre-hearing briefs and any objections to

Robert Wilson and Black Diamond Asset Management LLC

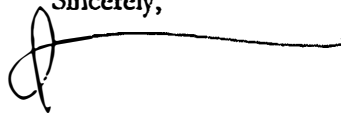
August 28, 2017

Page 2

witnesses and exhibits two weeks before the hearing, on Monday, January 29, 2018; and that the parties file any responses to any objections to witnesses and exhibits, if the court permits such responses, one week before the hearing, on Monday, February 5, 2018.

We stand ready to discuss these matters with you by phone before September 5, 2017. Please contact me at (212) 336-0116 or James Hanson at (212) 336-0087.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a long horizontal line that tapers to the right.

Preethi Krishnamurthy

Encl.

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Administrative Proceedings Rulings  
Release No. 4970 / August 11, 2017

Administrative Proceeding  
File No. 3-18099

In the Matter of  
**Black Diamond Asset  
Management LLC, and  
Robert Wilson**

**Order Postponing Hearing and  
Scheduling Prehearing  
Conference**

On August 4, 2017, the Securities and Exchange Commission issued an order instituting proceedings (OIP) against Respondents Black Diamond Asset Management LLC and Robert Wilson. A hearing is currently scheduled for September 18, 2017.

In view of the foregoing, I ORDER the following:

1. The hearing is POSTPONED and a telephonic prehearing conference will be held on September 7, 2017, at 11:00 a.m. EDT.
2. Prior to the prehearing conference, the parties must confer and discuss the date and most convenient location for the hearing, the prehearing schedule, and the matters listed in Rule of Practice 221(c). See 17 C.F.R. § 201.221(c). In doing so, the parties should bear the following in mind. First, 5 U.S.C. § 554(b) and 17 C.F.R. § 201.200(c) provide guidance regarding the location of the hearing. Second, Respondents have a right to a hearing between thirty and sixty days after service of the OIP. 15 U.S.C. § 80b-3(k)(2); see OIP at 5–6. If they exercise that right, the hearing will commence on a date to be determined within that time period. Otherwise, the parties should review Rule of Practice 360(a)(2)(ii) in discussing possible dates to start the hearing and should consider the Commission's guidance in amending rule 360, giving particular attention to the admonition that "the maximum prehearing period should be the exception rather than the norm."



Amendments to the Commission's Rules of Practice, 81 Fed. Reg. 50212, 50214 & n.18 (July 29, 2016); see 17 C.F.R. § 201.360(a)(2)(ii).

3. By September 5, 2017, the parties should submit a joint letter, filed consistent with Rules of Practice 151 and 152, 17 C.F.R. §§ 201.151, .152, addressing:
  - a. the results of their discussion;
  - b. whether Respondents wish to exercise their right to begin the hearing between thirty and sixty days of service of the OIP;
  - c. a proposed prehearing schedule; and
  - d. the date on which they have agreed that the hearing should begin.
4. If the parties are unable to agree on a prehearing schedule and a date to begin hearing, they should file separate letters explaining their disagreement. The parties are advised that due to other currently scheduled commitments, I will be unavailable from February 20 through March 9, 2018.
5. The Division of Enforcement should promptly notify this office when Respondents or their counsel are served with the OIP. Service on an individual is complete upon delivery. 17 C.F.R. § 201.141(a)(2)(i). The parties may stipulate to a service date in their joint letter.

The parties are asked to e-mail PDF text-searchable courtesy copies of any filings to [alj@sec.gov](mailto:alj@sec.gov).

---

James E. Grimes  
Administrative Law Judge

## Krishnamurthy, Preethi

---

**From:** Robert Wilson <[REDACTED]@optonline.net>  
**Sent:** Monday, August 28, 2017 7:38 PM  
**To:** Krishnamurthy, Preethi  
**Subject:** RE: In the Matter of Black Diamond Asset Mgmt. LLC & Robert Wilson (AP File No. 3-18099)  
**Attachments:** Federalist No 78.docx

You need to learn how to read you have no authority and you do not belong in this country treasonest.

**From:** Krishnamurthy, Preethi [<mailto:KrishnamurthyP@SEC.GOV>]  
**Sent:** Monday, August 28, 2017 4:57 PM  
**To:** [REDACTED]@optonline.net  
**Cc:** Hanson, James K. <[HansonJ@SEC.GOV](mailto:HansonJ@SEC.GOV)>  
**Subject:** In the Matter of Black Diamond Asset Mgmt. LLC & Robert Wilson (AP File No. 3-18099)

Dear Mr. Wilson and Black Diamond Asset Management:

Please see the attached correspondence.

*Preethi Krishnamurthy  
Senior Trial Counsel  
U.S. Securities and Exchange Commission  
New York Regional Office  
Brookfield Place  
200 Vesey Street, Suite 400  
New York, NY 10281-1022  
(212) 336-0116*

Please see the **Exhibit 4 tab** for the CD containing  
both **Exhibits 4 and 7**

## Krishnamurthy, Preethi

---

**From:** Robert Wilson <[REDACTED]@optonline.net>  
**Sent:** Tuesday, September 05, 2017 5:53 PM  
**To:** Krishnamurthy, Preethi; ALJ  
**Cc:** Hanson, James K.; hannity@foxnews.com  
**Subject:** RE: AP File No. 3-18099 (Black Diamond Asset Mgmt. LLC): Letter concerning scheduling

This woman is about as stupid as a rock as I told this jackass I invoke my rights under the nine amendment six months before Hanson started his witch-hunt. In case you do not know the ninth amendment incorporate the unalienable rights clause of the Declaration of Independence into the Constitution. That clause states clearly the following it is the right of the People to alter or to abolish the Government and that is what I did by invoking my rights under the 9<sup>th</sup> amendment. Additionally the conman James Hanson try to through some lying ass bullshit at me that about let's just say the court rule in the SEC favor proving he is not confident to hold the position he does as it is only the people who have a say no court or any member of the government weather elected or employed has a say as to the right of the people to enforce this clause. Additionally the first president ever set in the United States of America shows that one person can enforce the clause as Samuel Adams at his own accord start the Revolutionary War. On top of all of this not one of the assholes at SEC knows who Benjamin Graham is. It is imposible to regulate an industry when you have no knowledge of the industry, as Graham is the inventor of the asset management industry. The must be the reason why these asshole are conducting this witch-hunt and claiming I had no accounts when I provided them with 7 notarized letters and Private Placement Memoria demonstrating I did or is it the fact that I turn in Michele Obama for running a pump and dump with her Chief. It was after getting a call asking me to manage the liquidation of the stock and then was told by their IR person he was paying brokers to buy the stock the SEC started their witch-hunt.

I will tell you for the last time I invoke the ninth amendment, you have no authority, you cannot override the constitution, if I do not receive within 24 hours a letter of dismissal and letters stating that all involved in this SEC crime have been fired I will exercises my additional rights of abolishment and abolish all SEC treasonest involved.

Robert Wilson

**From:** Krishnamurthy, Preethi [mailto:KrishnamurthyP@SEC.GOV]  
**Sent:** Tuesday, September 5, 2017 4:48 PM  
**To:** ALJ <ALJ@SEC.GOV>  
**Cc:** Hanson, James K. <HansonJ@SEC.GOV>; [REDACTED]@optonline.net  
**Subject:** AP File No. 3-18099 (Black Diamond Asset Mgmt. LLC): Letter concerning scheduling

Dear Judge Grimes:

Please see the attached courtesy copy of the letter, exhibits, and certificate of service that the Division of Enforcement filed this afternoon with the Commission's Office of the Secretary in this matter.

*Preethi Krishnamurthy  
Senior Trial Counsel  
U.S. Securities and Exchange Commission  
New York Regional Office  
Brookfield Place  
200 Vesey Street, Suite 400  
New York, NY 10281-1022  
(212) 336-0116*

## Krishnamurthy, Preethi

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**From:** Robert Wilson <[REDACTED]@optonline.net>  
**Sent:** Thursday, September 07, 2017 6:03 PM  
**To:** ALJ; Hanson, James K.; Krishnamurthy, Preethi  
**Cc:** Woodworth, Charles; Thomas, Charvelle  
**Subject:** RE: 3-18099 BLACK DIAMOND ASSET MANAGEMENT, et al. #5028  
**Attachments:** Federalist No 78.docx

You have just proven you are untrustworthy and a criminal treasonest and out of control. Get this trough your conartist head you have no authority I have taken that from your lying trash ass by the invocation of the 9<sup>th</sup> amendment more than a year ago deliver by register mail to your RICO Organization. I have attached Federalist 78, since you are illiterate get someone who can read to read it to you and explain the meaning. You will find asshole from paragraph 11 of Federalist 78 "**A CONSTITUTION IS, IN FACT, AND MUST BE REGARDED BY THE JUDGES, AS A FUNDAMENTAL LAW.**" From paragraph 11 of Federalist 78 "**the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.**" From paragraph 12 of Federalist 78 "**Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. IT ONLY SUPPOSES THAT THE POWER OF THE PEOPLE IS SUPERIOR TO BOTH.**" So get this through your head you are stealing my money, by operating in a position you are not qualified to hold swamp creature, you have committed treason by violating the 5<sup>th</sup>, 9<sup>th</sup> and 14<sup>th</sup> amendments and you think your scum bag ass is going to tell me what to do as the Framers stated in Federalist 78 you do not have the authority, so you resign right now asshole conartist and shout down this Kangaroo Court you are defrauding the American people with. Did not your stupid ass get the message from the last election we the American people are sick of lying, cheating thieving assholes like you swamp creature we will exercise our right trying you for treason and then excite you after you have been found guilty by 12 citizens who will not be treasonest like you shit head. Keep your mouth shut that an order swamp creature.

**From:** ALJ [<mailto:ALJ@SEC.GOV>]  
**Sent:** Thursday, September 7, 2017 4:57 PM  
**To:** Hanson, James K. <[HansonJ@SEC.GOV](mailto:HansonJ@SEC.GOV)>; Krishnamurthy, Preethi <[KrishnamurthyP@SEC.GOV](mailto:KrishnamurthyP@SEC.GOV)>; Robert Wilson <[REDACTED]@optonline.net>  
**Cc:** Woodworth, Charles <[woodworthc@SEC.GOV](mailto:woodworthc@SEC.GOV)>; Thomas, Charvelle <[thomasch@SEC.GOV](mailto:thomasch@SEC.GOV)>  
**Subject:** 3-18099 BLACK DIAMOND ASSET MANAGEMENT, et al. #5028

**Courtesy copy.**  
**Kathy Shields**