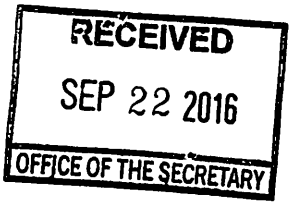
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16795



In the Matter of
JOSEPH J. FOX,
Respondent.

Respondent Fox's Reply Brief in Support of the Petition for Review of the Initial Decision

Pursuant to 17 C.F.R. § 201.450(a), Respondent Fox files this Reply Brief in Support of the Petition for Review of ALJ Elliott's Initial Decision *pro se* (as a pro se petitioner, Respondent's Brief is written in the first person).

I believe my Brief in Support of the Petition for Review of the ALJ's Initial Decision, filed on August 1, 2016, demonstrates that, a) I did not act with scienter, a critical component in the "Steadman Factor", b) I did not act recklessly, c) *Abraham and Sons Capital, Inc.* ("*Abraham and Sons*") does not shift the balance on the Steadman Factor, and d) it is not in the interest of the public at large that a collateral bar of any length be imposed against me.

Additional Facts in Support of My Petition for Review of the Initial Decision

In addition to my Reply Brief, I would like to address a few important facts that should make it ever clearer to the Commission that ALJ Elliot's Initial Decision merits reversal, and that the Division's Motion for Summary Disposition should be denied with prejudice.

On January 15, 2016, after the Division filed a Motion for Summary Disposition and I filed a Response Brief, the ALJ ordered the Division to file a supplemental brief addressing the limited issue of Respondent's scienter. In the Division's Supplemental Brief in Support of its Motion for Summary Disposition, the Division did not provide any new evidence of scienter. However, it made a new argument that "***Recklessness can satisfy the scienter requirement***[1]. SEC v. Jakubowski, 150 F.3d 675, 681 (7th Cir. 1998)."

As I have stated in my Petition for Review of the Initial Decision, *SEC v. Jakubowski* does not stand for the proposition that "***Recklessness can satisfy the scienter requirement***". The Court in *SEC v. Jakubowski* stated, "***...Sundstrand Corp. v. Sun Chemical Corp., 553F.2d1033, 1044-45 (7th Cir.1977), holds that reckless disregard of the truth counts as intent for this purpose.***" (Emphasis added)

[1] The Division did not actually quote *SEC v. Jakubowski*, it paraphrased the line '***Recklessness can satisfy the scienter requirement.***'

The ruling in the 7th Circuit stating that ***"reckless disregard of the truth counts as intent for this purpose"***, is significantly different from the general statement of ***"recklessness can satisfy the scienter requirement."***

More importantly, the Division has never claimed, nor could they, that I ever acted with a ***"reckless disregard of the truth."***

It is important to note that the Division has had two different pleadings in which it could have disputed my argument about *SEC v. Jakubowski*, yet it chose not to.

Instead the Division chose to ignore the rule of *Jakubowski* and simply stopped citing the case. However, what the Division has not stopped doing is working overtime to conjure a finding of recklessness where it did not exist. As noted, the Division has not done this by disclosing any new evidence of reckless behavior. On the contrary, it chose to recite the same facts with an increasing tone of bombastic rhetoric.

With no evidence of actual scienter[2] as required by *Steadman v. SEC*, there is no basis on which to sustain the ALJ's Initial Decision, and no basis not to deny the Division's Motion for Summary Disposition.

In summary, even if the standard urged by the Division were applicable, there is no basis to find that I acted recklessly regardless.

ALJ's Reversal

I would like to address the ALJ's 180-degree reversal that occurred between his March 16, 2016 original order denying ("Original Order") the Division's Motion for Summary Disposition, and his April 25, 2016 Initial Decision granting the Division's Motion.

ALJ Elliott stated the following in his May 19, 2016 Order Denying my Motion to Correct a Manifest Error of Fact:

> *"One of Fox's points – that I "rever[s]ed [my] prior ruling on scienter with no evidentiary basis" – merits discussion. Motion at 2. I previously ruled that the record was "insufficient to support summary disposition," and that "[m]ore is required to show that Respondent acted with scienter." Joseph J. Fox, Admin. Proc. Rulings Release No. 3711, 2016 SEC LEXIS 998, at *3 (ALJ Mar. 16, 2016). In the ID, which issued approximately six weeks later, I ruled that the Division had shown that Fox acted at least recklessly, citing Abraham and Sons Capital, Inc., 55 S.E.C. 252, 268 (2001). See ID at 6. Abraham and Sons Capital, Inc., holds that it is reckless for a securities professional1 to fail to be knowledgeable about, and to comply with, regulatory requirements to which he is subject. See 55 S.E.C. at 268. Abraham and Sons Capital, Inc., first came to my attention during the six weeks preceding issuance of the ID. That is, I changed my mind in light of newly discovered case law."*

[2] The Division has basically conceded to this fact, as has the ALJ in his March 16, 2016 Original Order denying the Division's Motion for Summary Disposition.

While I reject the suggestion that *Abraham and Sons* is relevant case law (see Respondent's Brief in Support of the Petition for Review of the Initial Decision Pages 2-3), I do find something perplexing.

ALJ Elliott had not learned any new facts about my case, and in fact had sided with me in both the March 16, 2016 Original Order denying the Division's Motion for Summary Disposition, as well as verbally in the March 21, 2016 pre-conference hearing (See Pre-Conference Hearing transcripts, attached hereto as Exhibit 1). Yet, ALJ Elliott chose to reverse course. ALJ Elliott chose to not just change his mind about imposing a collateral bar on me, ALJ Elliott chose to go to the extreme and grant the entire five years sought by the Division[3].

Contradiction by ALJ Elliott Regarding Abraham and Sons Capital, Inc.

In the March 16, 2016 Original Order Denying Motion for Summary Disposition, the ALJ stated the following:

> *"The evidence regarding the remaining two public interest factors is much sparser.* ***The Division's argument that Respondent acted at least recklessly is supported only by reference to his previous work experience and the FINRA licenses he has held at various times in his career.*** *Div. Supp. Br. at 2-4.* ***I must view these facts in the light most favorable to Respondent, the nonmoving party.*** *See Jay T. Comeaux, Exchange Act Release No. 72896, 2014 SEC LEXIS 3001, at *8 (Aug. 21, 2014). Having done so, I find the record insufficient to support summary disposition.* ***Many people have significant securities industry experience and licenses; this does not mean that they have acted recklessly any time they violate a securities statute or regulation related to their area of practice.*** *More is required to show that Respondent acted with scienter when committing the violations at issue, or that he acted with any particular state of mind at all[4]."*

See page 2 of the March 16, 2016 Original Order. **(Emphasis added)**

To be clear, ALJ Elliott did not agree with the Division that I "***acted at least recklessly***" just because I was a licensed individual with significant industry experience. In fact, he made this clear when he denied the Division's Motion for Summary Disposition and when he stated that just because someone has "***significant securities industry experience and licenses***", does not guarantee that it should be considered reckless when they "***violate a securities statute or regulation related to their area of practice.***"

The Division, however, would argue that the ALJ's understanding related to "***significant securities industry experience and licenses***" being a reckless factor was altered when *Abraham and Sons* "***came to [his] attention.***"

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[3] It is unclear how this "***newly discovered case law***" changed the ALJ's entire demeanor.

[4] Nothing more was provided by the Division.

However, this argument is deeply flawed. One needs to look no further than the footnote to ALJ Elliott's explanation of his reversal in his Initial Decision on April 25, 2016.

> *"More precisely, a securities professional with sufficient experience and training;* ***I do not read Abraham and Sons Capital, Inc., as requiring a finding of scienter in every case where a securities professional violates a regulatory requirement. As noted in the ID, Fox worked for several years as a registered representative[5], served as CEO of a registered broker-dealer[6], held several securities licenses at various points in his career, and conducted private offerings and sales and an initial public offering in the 1990s[7].*** *See ID at 2, 7. Under Abraham and Sons Capital, Inc., and in view of the undisputed facts of this proceeding, Fox acted recklessly."*
>
> See Footnote 1 from Order Denying my May 19, 2016 Motion to Correct Manifest a Manifest Error. **(Emphasis added)**

ALJ Elliott maintains his consistent belief that a violation by an experienced securities professional does not guarantee a finding of scienter. However, without any additional facts or evidence regarding my "***significant securities industry experience and licenses***", ALJ Elliott inexplicably concludes that I "***acted recklessly***".

To be clear, since ALJ Elliott's belief that *Abraham and Sons* does not compel a finding of scienter, and no new evidence was introduced by the Division proving recklessness, the commission should overturn the ALJ's ruling and deny the Division's Motion for Summary Disposition with prejudice.

Abraham and Sons Capital is not Relevant Case Law

The ALJ has made it clear that his reversal from denying the Division's Motion for Summary Disposition to granting it hinged on "***newly discovered case law***", *Abraham and Sons.* In my Brief in Support of my Petition for Review, I argued that *Abraham and Sons* is not relevant case law.

In their August 29, 2016 Brief in Opposition of my Petition for Review, the Division made the following argument:

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[5] I never claimed, nor have I ever worked, *"several years as a registered representative"*. Nor did the OIP say as much.

[6] While I have *"served as CEO of a registered broker-dealer"*, the broker-dealers in question were self-directed discount brokerage firms. In other words, I was never the CEO of a broker-dealer that facilitated investment banking, or that was a full service firm, or provided advice of any kind to its clients.

[7] I never *"conducted private offerings and sales and an initial public offering in the 1990s"* in my capacity as a registered individual.

> *"Fox's contention that Abraham and Sons Capital and Wonsover do not apply to him because he was not a registered investment banker falls completely flat. Neither case involves an investment banker or requires one to be an investment banker to be considered a securities professional.*

The Division completely misses the point as it relates to the relevance of *Abraham and Sons*[8]. Brett G. Brubaker, *Abraham and Sons* 's president, was found to have violated Section 17(a)[9] of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934[10] and Rule 10b-5[11].

Thus, Brubaker was a registered investment advisor and was found to have violated rules related to his responsibilities as a registered investment advisor. Brubaker was not found to have violated Section 5(a) or 5(c), which are the purported violations that are the subject of this Matter.

Thus, while it is true that Abraham and Sons does not involve an investment banker, or require them to be an investment banker, that is because their violations and the "***regulatory requirements to which they are subject***" had nothing to do with Section 5(a) or 5(c).

OIP Was in Fact Signed Under Duress

I would like to address the Division's rebuttal of my claim that I was forced to sign the OIP under duress[12], and that there were inaccurate facts in the OIP that were brought to the Division's attention before it was finalized. The Division recites that for this process I am obliged to agree that the facts are true. Given the circumstances that surrounded my signing the OIP, including the Division deliberately stalling the settlement process and giving misleading assurances, however, that is simply not justice.

> *"Fox's claim in his Petition for Review that he "was forced to ultimately agree to an OIP that had inaccurate facts (which were made clear to the Division before signing the OIP under duress)" is **patently false**. (Petition for Review at 20.) While Fox has proceeded pro se during the litigated portion of these proceedings, he was represented by counsel throughout the Division's investigation and during all settlement negotiations. (Pre-Hearing Conference*

[8] It is noteworthy that the Division never cited the "crucial" case of *Abraham and Sons* prior to the ALJ raising it.

[9] As the key enforcement provision of the 1933 Act, Section 17(a) prohibits fraud and misrepresentations in the offer or sale of securities.
(See http://www.kvn.com/news/news-items/Section-17-a-of-the-Securities-Act-of-1933-Unanswered-Questions-)

[10] The rule prohibits any act or omission resulting in fraud or deceit in connection with the purchase or sale of any security.
(See https://en.wikipedia.org/wiki/SEC_Rule_10b-5)

[11] This rule deems it illegal for anybody to directly or indirectly use any measure to defraud, make false statements, omit relevant information or otherwise conduct operations of business that would deceive another person; in relation to conducting transactions involving stock and other securities.
(See http://www.investopedia.com/terms/r/rule10b5.asp)

[12] This assertion by me in NO way lessens my contrition for any unintentional violation of Section 5.

Tr. at 29, 33.)"

That I was represented by counsel during most of the "negotiations" does not mean that I wasn't under duress when I signed the OIP. In fact, it is the following email communication between the Division and Ditto's General Counsel Stuart Cohn that proves that I was forced to sign my OIP in order for the Company to have a chance at survival:

On February 3, 2015, Jedediah B. Forkner, Senior Attorney for the Division of Enforcement, sent the following email to Ditto Holdings General Counsel Stuart Cohn:

> "***Mr. Cohn:***
> ***We received your latest suggested edits and have made changes to the attached drafts of the Offer and Order. We trust that with these edits we now have reached an agreement that Ditto is willing to sign so that we can submit it to the Commission for approval.***
>
> ***We will send you a draft of any release before it is made public, but no release will be drafted unless and until a signed agreement is approved by the Commission. The release would be based on the facts recited in the Order. If you would like to review sample releases, you can find them on our public website (sec.gov).***
>
> ***Thanks,***
> ***Jed***"

Mr. Cohn responded on February 9, 2015 with the following email:

> "***Mr. Forkner-- As indicated, at my request, by [Ditto Holdings outside counsel], the company is prepared to submit the signed Offer. Because the Offer requires notarization, I will take care of that and send you the signed, notarized Offer Tuesday.***
>
> ***We appreciate the SEC's concluding a company settlement independent of Mr. Fox's matter, and, also of importance to the company, your facilitating a global settlement of the outstanding matters affecting both Mr. Fox and the [FINRA investigation with the] company.***
>
> ***Sincerely,***
> ***Stu Cohn***"

Mr. Forkner responded on February 10, 2015 with the following email:

> "***Thank you.***
> ***Jedediah B. Forkner***"

On February 10, 2015, Mr. Cohn sent Mr. Forkner the Division's settlement offer, signed and notarized. Mr. Cohn was led to believe that the Company's settlement would be promptly going through the Commission's review process.

On March 18, 2015, more than 5 weeks after submitting the signed settlement agreement, outside counsel for Ditto Holdings spoke with Mr. Forkner and Assistant Director Anne McKinley, and inquired as to the status of the Commissions' review. He reported back the following in an email:

> "***They will not send any offer from Mandel, Ditto, and Fox to DC until they are all in one package. Will send it without your offer only if you take the position you are going to litigate with the Commission.***"

I responded four minutes later:

> "***Why did they mislead us on timing???***"

To which Ditto Holdings outside counsel replied:

> "***BTW, Anne apologized, using that word.***"

Once it became clear that the Division had wasted precious time misrepresenting the process, and given the dire circumstances of our company, I had no choice personally but to get a deal signed at the earliest opportunity. This was in an effort to save my Company and the investments of over 200 people. If I had known that my Company was going to fail anyway (under the weight of Paul Simons and his all-out assault to kill the Company), I would under no circumstances have agreed to the OIP. I would have fought the false allegations until I couldn't fight any more.

That I was represented by counsel is a red herring. All that meant was that my lawyer had a ring side seat for the choke-hold in which an agency of the federal government was holding me and the company I founded. Was my lawyer supposed to show up in the lobby of the SEC Chicago office and jump and down demanding the Division keep its word that the Company's settlement would be submitted to the Commission for approval as soon as it was signed? My lawyer was obviously powerless to ameliorate that deliberate display of nonfeasance by the Division.

I am obliged to bring to the attention of the Commission that I signed my OIP in month 22 of an intensive, and I believe unwarranted, two-year investigation[13].

This investigation was instigated by a completely disingenuous letter delivered on September 9, 2103 by Paul Huey-Burns (a Washington area attorney) who had previously worked at the SEC and was on a first name basis with the Chicago office Associate Director, Robert Burson, and others. This letter contained more than a dozen false allegations[14].

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[13] The SEC investigation overlapped with a nearly identical 20 month FINRA investigation, that also began in September 2013, when Paul Simons contacted a friend who worked in the Office of the General Counsel for FINRA. In May 2015, FINRA, who had previously filed a "Wells Notice" threatening all kinds of sanctions, finally closed their investigation without any further proceedings and chose to defer to the SEC.

[14] It is important to note that neither the September 9, 2013 letter, nor any other communication by Huey-Burns or Simons with the SEC, ever brought up the unintentional violation of Section 5 (lack of enough financial disclosures to non-accredited investors under Rule 506) as purported in the OIP.

Not only had Simons' attorney never seen the documents that he claimed supported the allegations (a matter that I am pursuing in a separate forum but which I would encourage the Commission to investigate), but the allegations themselves were also unfounded.

In his letter to Mr. Burson, Huey-Burns who was obviously trying to impress his new clients with his SEC connections, falsely stated that "***allegations are substantive and well documented***", and that I was "***in the process of perpetrating a fraud***". Huey-Burns also wrote that "***there is significant evidence of Mr. Fox's misfeasance***" and there is concern "***that Mr. Fox and others may attempt to create post-hoc documents to justify the apparently illegal transactions.***" (See September 9, 2013 email, attached hereto as Exhibit 2.)

Understand that the only document Huey-Burns had in his possession was an email from Simons that clearly showed that I was in fact in the process of firing Simons for reasons that (obviously) had nothing to do with him reporting his (false) allegations days later.

The email in Huey-Burns possession began with a message from Brian Lund (a co-founder of the Company) to 26-year-old junior executive Adam Stillman. Lund ended the email to Stillman with:

> "***I don't see, barring a miracle, how Paul stays with the company.***"

Stillman forwarded Lund's email to Simons telling him that:

> "***Brian has spent time tonight trying to talk joe out of firing you.***"

Simons responded two minutes later with:

> "***Thanks.***"

(See Barring a Miracle email, attached hereto as Exhibit 3.)

Unfortunately, Huey-Burns chose to conceal this information from the SEC[15], thus making it possible for Simons for nearly two years to perpetuate the lie[16] that he was wrongfully terminated for reporting to the SEC wrongdoing by me and my Company.

In a follow-up email that Huey-Burns sent Mr. Burson the next morning, Huey-Burns, in an effort to get the SEC to act quickly, incredulously told Mr. Burson, absurdly that, "***we are concerned that bank statements and other documents may be subject to destruction or alteration.***" Obviously, Huey-Burns was well aware of the SEC's subpoena power and that, in the 21st Century, a bank customer could scarcely destroy bank information by discarding paper statements. Therefore, Huey-Burns did not make this ridiculous claim because he was concerned that I was destroying irretrievable evidence. Rather, he sought to impeach my honestly and

[15] This information was hidden from me and the Company as well for nearly 20 months.

[16] Simons subterfuge included the filing of a false and perjured Form [redacted] in December 2013. (See Evidence of Perjury from Simons Form [redacted], attached hereto as Exhibit 4.)

instigate an SEC investigation.

Hence, without ever making any kind of preliminary inquiry to test the validity of the allegations of a disaffected former officer, the regional Division office launched a crushing two-year investigation that resulted in exactly none of the original allegations against me and the Company ever being proven true (for good reason), but also resulted in the demise of Ditto Holdings. That a lawyer-friend of an SEC Division manager was able to procure "preferred customer" treatment on behalf of a disaffected and hostile former employee, and thereby accomplish this misuse of the powers of government, resulting in great harm to over 200 investor-shareholders, should offend all citizens. This is a system that is badly broken.

Incorrect Fact in the OIP - Violations Were NOT Recurrent

The Division's false claim in the OIP that Ditto Holdings had a greater number of non-accredited investors over a longer period of time. This allowed for a significant mischaracterization of the recurrent nature of my inadvertent[17] violations.

On December 22, 2014, Ditto's General Counsel Stuart Cohn sent the Division a revised draft OIP with corrected non-accredited numbers. In the cover letter, Mr. Cohn Stated... "*We have corrected some of the statistics describing our offerings in paragraph 2 under 'Offerings'.*"

The corrected numbers were as follows:

Period	Division's #	Our Corrected #
April 2009 to March 2012	13	4
June 2012 to Jan. 2013	10	8
Dec. 2012 to Sept. 2013	31	25

(See December 22, 2014 email correspondence, attached hereto as Exhibit 5.)

On January 6, 2016, Mr. Cohn had a telephone conversation with the Division. During that call, the Division's attorneys told Mr. Cohn that they would not correct the number of non-accredited investors as we had requested. The Division stated that our corrected numbers did not jibe with what they had, so they wouldn't change it. Mr. Cohn asked the Division to forward him what they were basing their numbers on.

On January 6, 2015 at 12:14pm central, Jed Forkner for the Division sent the following:

> *Stu:*
> *Per our discussion, I have attached the document that we used in counting the number of non-accredited investors.*
> *Thanks,*
> *Jed*

(See email correspondence, attached hereto as Exhibit 6.)

[17] Once again, the fact that the violations were inadvertent does not lessen my contrition for having committed them.

Attached to the email, was a spreadsheet that Mr. Cohn, nor I, had ever seen before. It was presumably created by the Division during their investigation, by reviewing ALL of our investors Subscription Agreement[18]. The problem was that the spreadsheet was factually incorrect. Whoever inputted the information about the investors accredited status, counted 17 accredited investors as non-accredited. Mr. Cohn argued vociferously that the Division had erred, and that they could simply re-review the documents in their possession (including a detailed spread showing all non-accredited, attached hereto as Exhibit 7A. They refused this out of hand. It finally got to the point that getting the Company's settlement completed was more important than continuing the battle with the Division, so the Company acquiesced.

(See Division's non-accredited spreadsheet, attached hereto as Exhibit 7.)

The evidence that the Division was in possession of the information that corroborated our corrected numbers was both in the documents we provided the Division, as well as the files provided to me in a hard drive by the Division in November 2015. This hard drive contained approximately 350,000 pages of files. Unfortunately, approximately 100,000 pages are non-searchable images (versus searchable PDF's, Emails, Word docs and text docs). Meaning, that you have to go through these images one by one to find what you are looking for (I am not sure why this was the case, as we sent the Division all of our files in their native format).

Here are two of the Subscription Agreements in question that I uncovered in image form (an exercise that took nearly 5 hours).

F. Karlin Subscription Agreement, SEC file number = SEC_Ditto-EPROD-00000911 through 00000917

S. Karlin Subscription Agreement, SEC file number = SEC_Ditto-EPROD-00000926 through 00000932

(See SEC files, attached hereto as Exhibit 8.)

As you can clearly see, both of the shareholders checked off that they were an accredited investor in section 6[19].

I have also attached four of the original Subscription Agreement in question[20] that was in the Division's possession. As you will clearly see, all four indicated that they were an accredited

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[18] As with all of the Division's requests, we provided the Division with every one of our investors Subscription Agreements going back to early 2009.

[19] As an aside, both of these shareholders were actually gifted these shares by a family member. This occurred in both May and October 2010. The Division incorrectly categorized 3 of the 4 transactions as non-accredited investors.

[20] One of the actual non-accredited investors purchased stock on two separate occasions during the time period in question, for a total investment of $12,500. To be clear, the OIP states the number of "*non-accredited **investors** who purchased*" stock. Not, how many times did a non-accredited investor purchase stock. Another individual the Division incorrectly categorized was G. Shanberg. Shanberg was a co-founder of Ditto Holdings and already possessed 500,000 shares of Ditto Holdings founder shares at the time of his additional purchase in September 2009.

investor. (See original Subscription Agreements of investors wrongly categorized as non-accredited, attached hereto as Exhibit 9.)

In other words, the corrected number of four non-accredited investors during April 2009 to March 2012 was in fact the correct number (as was the 2 fewer in the June 2012 to January 2013 period, and the 6 fewer in the December 2012 to September 2013 period). The Division had all of the facts in their possession, but failed to properly prepare a spreadsheet.

In their August 29, 2016 Brief in Opposition of my Petition for Review, the Division falsely stated:

> "*Fox claims in his Petition for Review that his illegal sales occurred during a smaller window,* ***but his claim is contradicted by the evidence gathered in the Division's investigation***..."
>
> (Page 10 of the Division's August 29, 2016 Brief in Opposition of my Petition for Review.)

This falsehood by the Division is important for two reasons.

First, this knowingly false information in the OIP on the number of non-accredited investors over a much longer period of time surely had a significant impact on the ALJ's ruling in his Initial Decision that my actions were egregious and recurrent. In their August 29, 2016 Brief in Opposition of my Petition for Review, the Division falsely stated..."***Fox's violations were not isolated, but rather they were frequent and continued over the course of more than four years.***"

In my Brief in Support of my Petition for Review, I stated as follows:

> "*It is important to note that 90% of the total non-accredited investors (representing more than 95% of the money invested by non-accredited investors), made their purchases during a 10-month period from December 2012 through September 2013.* ***A period that we had both in-house counsel and outside counsel.***
>
> *The other 4 non-accredited investors (who purchased a total of $69,500 out of $1,327,995 of stock), made their purchases during a 12-month period from March 2010 through March 2011.*"
>
> (Page 13 of my Petition for Review of the Initial Decision.)

In other words, my violations were significantly less recurrent than the Division led the ALJ to believe. In addition, during the 10-month period where the Company sold stock to 90% of all its non-accredited buyers, the Company had in-house as well as outside lawyers to provide legal counsel on these matters[21]

Second, it is further evidence that the Division's claim that it was "***patently false***" that I

[21] Once again, this fact is not mention to lessen the importance of providing the proper disclosures to non-accredited investors under Rule 506.

"was forced to ultimately agree to an OIP that had inaccurate facts (which were made clear to the Division before signing the OIP under duress)" is in fact the assertion that is patently false.

Another Incorrect Fact in the OIP

Another incorrect fact in the OIP that the Division was aware of, was the following claim made in paragraph 16:

> *"At least **two** of the purchasers had previously identified themselves to Ditto Holdings as non-accredited investors."*

In a May 8, 2015, my prior counsel emailed the Division, stating the following:

> *"With respect to the changes in paragraph 16, Mr. Fox believes that only one purchaser had previously identified himself as a non-accredited investor."*

(See May 8, 2015 email correspondence, attached hereto as Exhibit 10.)

On May 14, 2015, my attorney emailed me a recap of a phone call she just had with the Division regarding among other things, paragraph 16. Here is an excerpt from that email:

> *"With respect to "two" investors identifying themselves as being non-accredited – they claim that came out of your testimony. Accordingly, they refuse to change it."*

(See May 14, 2015 email correspondence, attached hereto as Exhibit 11.)

Here is the appropriate excerpt from my December 10, 2014 On the Record testimony:

DIVISION:	Okay. Did you determine whether each of those purchasers was accredited or non-accredited?
JOSEPH FOX:	I believe they all were accredited and I was wrong. There were two non-accrediteds.
DIVISION:	What was your belief based on?
JOSEPH FOX:	A lot of them were existing shareholders so I knew from their status. But, there was a couple of new ones that I was not as familiar with, unfortunately, and I, I thought I had it on here where we, where it specifically said that I am an accredited investor and whatever, and I, unfortunately, I missed that. That was my, my mistake only.
DIVISION:	Did each of the investors, did they inform you in connection with their purchases of your personal sales whether they

were accredited or non-accredited?

JOSEPH FOX: No. I believe that they, because there is, most of them of are existing shareholders I believe that they were already, I knew them, them to be non-accredited. I mean, sorry, to be accredited, excuse me. But, I missed it. There was two that weren't accredited. I do take responsibility for that.

(See December 10, 2014 On the Record testimony, pp 189 lns. 13-25 and pp 190 lns. 1-8, attached hereto as Exhibit 12.)

To be clear, I never said that the two non-accredited purchasers were included in the ones that were existing shareholders (and therefore we would have known their accredited status). In fact, only one purchaser was an existing shareholder and therefore, only ONE purchaser had "*previously identified themselves to Ditto Holdings*" as non-accredited. We tried over and over again to clarify this fact and others, but to no avail.

One more thing as it relates to the sale of my shares. Contrary to the false assertions previously made by the Division, the sale of shares to the accredited investors were not tied to an "offering" with the two non-accredited investors. This is a matter on which we had consulted extensively with outside counsel to the company. These sales were made individually, without a set price or set number of shares, and following individual discussion with the purchasers. There were three different prices negotiated by the various purchasers of my shares. Therefore, the Rule 4(1)1/2 exemption was valid for all but the two non-accredited buyers. As a reminder, during the "negotiations", consistent with my argument that only the sale to the two non-accredited buyers were void of the Rule 4(1)1/2 exemption, I offered the Division to repurchase the 39,227 shares (for $43,150) that the two non-accredited buyers of my shares purchased. The Division declined my offer.

Other Cases Cited by the Division

On page 9 of their August 29, 2016 Brief in Opposition to my Petition for Review, the Division attempts to argue that the following cases, that have resulted in industry and penny stock bars, are prime examples as to why a five-year collateral bar in my case is not justified.

> "*The Commission has found in both litigated and settled cases that industry and penny stock bars are in the public interest when individuals violate the securities registration provisions. See, e.g., In the Matter of Charles F. Kirby and Gene C. Geiger, Securities Act Rel. No. 8174, 2003 WL 71681, at *10-11 (January 9, 2003) (litigated action barring two registered individuals from associating with a broker or dealer and from participating in penny stock offerings with a right to apply for reentry after five years based on violations of Section 5); In the Matter of Robert Patrick Stephens, Securities Act Rel. No. 9461, 2013 WL 5427958 (September 30, 2013) (settled action imposing collateral and penny stock bars based on violations of Section 5); In the Matter of Joseph A. Padilla, Exchange Act Rel. No. 66683, 2012 WL 1066120 (March 29, 2012) (settled action imposing collateral bar against*

registered individual with a right to apply for reentry after three years based on violations of Section 5); In the Matter of Gary J. Yocum, Exchange Act Rel. No. 66682, 2012 WL 1066119 (March 29, 2012) (settled action imposing collateral bar against registered individual with a right to apply for reentry after three years based on violations of Section 5)."

In the Matter of Charles F. Kirby and Gene C. Geiger, the case revolves around an intentional and convoluted scheme to sell unregistered securities in a thinly traded shell company. There is no resemblance to the facts in this Matter.

In the Matter of Robert Patrick Stephens, the case revolves around a $40 million Ponzi scheme, and the payment of more than $1 million in commissions to Stephens. There is less than no resemblance to the facts in this Matter.

In the Matter of Joseph A. Padilla, the case revolves around a "scheme to distribute unregistered securities of Rudy Nutrition ("RUNU")", where Padilla knowingly sold unregistered securities into the public market. There is no resemblance to the facts in this Matter.

In the Matter of Gary J. Yocum, similar to Padilla, the case revolves around the same scheme to sell Rudy Nutrition, where Yocum knowingly sold unregistered securities into the public market. There is no resemblance to the facts in this Matter.

It appears that the Division is unable to find a Matter that even closely resembles the matter at hand. Not only are the Division's ostensible precedents founded in different fact patters, they all involve intentional acts and egregious behavior. Nonetheless, two of the Matters resulted in a three-year collateral bar. There is simply no justification that a collateral bar, let alone a five-year bar, that would be even close to appropriate in this Matter.

Truth About Vindication & Simons' Echo Chamber of Lies

I would wish to add a few more points on the subject of "vindication", to which the Division has wildly overreacted.

For some reason, the ALJ appeared to view favorably the Divisions false claims that I was not sincere about my "***assurances against future violations and [my] recognition of the wrongful nature of [my] conduct.***" (Page 2 of the Initial Decision.)

With the following additional details on what occurred, I believe that the Commission will be able to understand what was meant by the word vindication in both my September 2015 email to shareholders and public press release. In addition, it will be clear that the following statement by the ALJ on page 5 of his Initial Decision was truly misplaced:

> "*Fox even asks the recipients to consider additional investments in Ditto Holdings now that "the SEC issue [is] behind us." Div. Mot. Ex. A at 2-3.* ***This calls into question the degree to which he acknowledges his misconduct and the sincerity of his assurances against future wrongdoing.***"

Where is the logic here? How does the fact that the Company, which was on the brink of collapse because of Paul Simons, was finally able to move forward and raise desperately needed funds call into question "***the degree to which he acknowledges his misconduct and the sincerity of his assurances against future wrongdoing?***" The facts are simple. The SEC issues was behind us. The Company and I had signed OIP's and the ALJ proceedings (which was solely to determine non-financial sanctions against me) did not affect the Company. Moe importantly, the OIP for both myself and the Company had absolutely nothing to do with Simons nefarious claims.

As I have previously stated, the facts of Paul Simons and Jeremy Mann's malicious efforts are very clear. Simons had emails from two different 26-year-old "confidantes" that told him he was being fired. One specifically said "***Joe is firing you Tuesday.***"

Why is this so critical? Because neither Simons, nor his lawyer (former SEC counsel Paul Huey-Burns) ever told Robert J. Burson (Associate Regional Director for the Chicago Regional Office) and others that he knew he was being fired prior to his "blowing any type of purported [redacted] Simons goes as far as emailing Robert Burson on September 18, 2013 at 11:50pm, that he was concerned about the "extreme retaliation" placed upon him (by being terminated for reporting terrible things about me and the Company) and that he was worried about being sued (as additional retaliation). Simons knew his termination was not in retaliation for his reporting anything to the Company or the SEC, and he was served a lawsuit by Ditto Trade just 3 hours earlier. To be clear, Simons was hoping that one more lie could get the SEC to act before it become aware of the lawsuit filed by Ditto Trade, and with that, the truth.

As clearly stated in the attached delineation of Paul Simons' lies to Robert Burson in Simons' September 18, 2013 email, Simons played the SEC and the Associate Director like a fiddle. It is the vindication with respect to Simons' blatant lies and malicious actions that I was clearly vindicated from, and this is what I was clearly referring to in my email to shareholders and public press release. (See Analysis of Simons September 18, 2013 email to Robert Burson, attached hereto as Exhibit 13.)

To truly understand the depths of the effort to spread Simons lies, one has to only look at the fraudulent email sent to Jed Forkner by Ilene and Robert Mann on November 11, 2014:

> *Dear Mr. Forkner,*
>
> *I'm writing to you for some help and some answers. I am a shareholder of Ditto Holdings and I know that the SEC has been doing an investigation of the illegal and unethical transactions that Mr. Joe Fox, CEO, has committed and is continuing to commit. We feel that he is no different than Bernie Madoff.... just on a smaller scale.*
>
> * * *
>
> *We are hoping that the SEC can take action against Mr. Fox, Ditto Holdings, and all others who have chosen to disregard their fiduciary duties. Joe Fox has been extremely manipulating with his lies, deceit and false hopes to all of us investors. As of July 29, 2013, Joe announced they raised over $10 million and were offering*

another $3 million to be raised. Ditto has raised over $12 million in 3 years and who knows how much he just extorted out of some of the shareholders.

(See November 11, 2014 email correspondence, attached hereto as Exhibit 14.)

The Mann's failed to mention to Mr. Forkner that they are the parents of Jeremy Mann.

The Jeremy Mann who was the 26-year-old interim CFO at the time of the false [redacted] being blown.

The Jeremy Mann who was referred to the Chicago Police Department Financial Crimes Division for theft (including unauthorized Company checks written to a "Robert Mann" and unauthorized use of the Company credit card to buy a "Ilene Mann" birthday presents[22]).

The Jeremy Mann who lied to the Company that he was vising with the outside accountant over an 8-month period in 2013[23].

The Jeremy Mann who alerted false [redacted] Paul Simons that he was being fired the following Tuesday[24], thus allowing Simons the ability to make false accusation toward me, the Company and on the SEC the day before his scheduled termination.

The Jeremy Mann never disclosed to FINRA or the SEC that Simons knew he was terminated for reasons completely unrelated to the false allegations.

Simons "Echo Chamber" of lies were assisted by another malicious shareholder[25], Lawrence "Larry" Wert. Larry Wert was a close confidant of Ilene and Robert Mann[26], and colluded with Simons to harm me since September 11, 2013.

As a reminder, Larry Wert is the one who provided the "*Declaration of Investor Lawrence J. Wert attached as Ex. 1 and Attachment B*[27]" for the Divisions Motion for Summary Disposition.

To better understand who Larry Wert is, one only has to review his own words and actions.

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[22] (See March 31, 2014 email to Mann with details on his misappropriation and demand for repayment, attached hereto as Exhibit 15.

[23] (See Walking into Accountant offices email and affidavit by accountant, attached hereto as Exhibit 16.)

[24] (See "***Joe is firing you Tuesday***" email, attached hereto as Exhibit 17.)

[25] The reason for Wert's misplaced hostility towards me is clearly articulated in the attached Exhibit 18.

[26] Larry Wert had never met or spoke with Ilene and Robert Mann prior to their son Jeremy being fired for cause for theft and breach of his fiduciary duty.

[27] Shareholder email and Vindication press release.

On September 11, 2013, Paul Simons sent out an email to all shareholders falsely telling them that he was fired for reporting wrong-doing. In just a few hours, Wert responded to Simons (whom he had never met at that point) with the following declaration:

> "***I understand and am happy you stood up. I do not know the details but I suspect you will have my full support. I have had to get legal counsel towards ditto as well. Please let me know if we can help. Thank you. Larry***"

(See September 11, 2013 email, attached hereto as Exhibit 19.)

A few days later on September 14, 2013, Wert emailed Simons the following:

> "***Yep...I am trying to apply some different pressure.***"

(See September 14, 2013 email, attached hereto as Exhibit 20.)

Wert's "***pressure***" went on unabated for over two years.

Wert made it very clear in late 2014 (to Richard K. our largest investor) that he would do all he could to hurt us by stopping our efforts to sell the Company to Yahoo! as his boss was on their board. (Our investment bankers at the time, Moelis & Co. had begun conversations with Yahoo! A few weeks earlier.) That was the end of our conversations with Yahoo!, as well as our relationship with Moelis.

On January 10, 2015, Wert sent Simons the following email:

> "***I am sending another legal letter [to Ditto]... part will be formalizing complaint that spending $ on legal vs you, is not in Corp's best interest...***"
>
> "***Yep...I am trying to apply some different pressure.***"

(See January 10, 2015 email, attached hereto as Exhibit 21.)

At the time of this email (and the letter we ultimately received from Wert's lawyer), the only money being spent on lawyers relating to Simons was in defense of Simons lawsuit against the Company and myself. So basically, Wert wanted us to not defend ourselves against Simons.

In October and November 2015, I heard from a hostile Marc Mandel (a former friend of the Company and someone who Simons destroyed) that Wert was working on a plan to have me and other management forced out of the Company. This was corroborated by other shareholders as well.

On November 18, 2015, Wert through his lawyer, sent a 77-page document laced with an abundance of defamatory rhetoric to the Company's lawyer threatening that if I (and my family) did not immediately step down from the company Wert would share the 77-page document with all of the shareholders. We informed Wert that we do not take too kindly to threats. However, we told him that if he had a proposal with new management and additional funds, we would take

it seriously (as the Company was weeks away from collapse). Wert had no plan. He just wanted to hurt me and my family and if the Company (and justice) was damaged along the way, so be it.

On December 1, 2015, Wert not only followed through on his threat to send the libelous 77-page document (along with a cover letter written by his lawyer for the shareholders) to our 200+ shareholders, he purposely did so from his Tribune Company email to lend his false words some weight (Larry Wert is and was the President of Tribune Media).

On December 6, 2015, Wert forwarded an email to all shareholders with a highly defamatory message from Paul Simons.

Larry Wert knowingly misled the division. During his defamatory efforts against me that were meant to help destroy the Company, Wert made it clear that he didn't care about the truth. In the December 21, 2015 email from Larry Wert to all Ditto Holdings shareholders, Wert made the following shocking declarations:

> *"As to Joe Fox's implication that the SEC made some kind of determination that he had not misappropriated corporate funds, any such implication is untrue.* ***The SEC investigates violations of the securities laws, and typically it does not get involved in matters of internal corporate wrongdoing that do not implicate the securities laws.***

It is beyond the pale that Wert tried to convince my shareholders that the SEC does not pursue individuals who commit fraud or misappropriation of funds, as alleged by Simons.

> *"Again, I invite you to read the SEC orders themselves. They say nothing, one way or the other, about allegations of financial improprieties or self-dealing by Joe Fox. Instead, they focus entirely on Joe's sale of SoVesTech shares to unaccredited investors, and they concluded that Joe Fox violated the securities laws."*

Wert, who as no background in the field of law or financial services, did his level best to convince our shareholders that the SEC would have just ignored Simons' allegations of *financial improprieties or self-dealing* by me or anyone else?

> *"Moreover, in the legal papers filed by the SEC Division of Enforcement on November 6, 2015, the SEC specifically identified, as one of the reasons justifying such a five year ban, Joe Fox's statements to shareholders that he had somehow "been vindicated" by the SEC proceedings and that his violations of the securities laws supposedly involved only "inadvertent technical rules violations." As the SEC put it:*
>
> *"Fox further demonstrated in the September 2015 press release and email message to investors that he does not recognize the wrongful nature of his conduct and that he does not appreciate the importance of complying with the federal securities laws."*

Wert, who has continually fed the Division with his venomous lies (including his

indignation on the vindication shareholder email and press release), perpetuates the lies that I wasn't vindicated of Simons' nefarious allegations of fraud and misappropriation.

> "*One last point needs to be clarified. Mr. Fox's communications to shareholders repeatedly refer to some purported affiliation or association between me and Marc Mandel. For example, Joe's December 18 communication refers to me as Mr. Mandel's "partner in propaganda.*"
>
> "*If Joe is trying to suggest that there is some sort of arrangement or cooperative effort between Marc Mandel and me, then his suggestion is wrong. I do not mean to disparage Mr. Mandel, and indeed, I assume that Mr. Mandel is doing what he thinks is best on behalf of the shareholders. However, in my view, Mr. Mandel's history and his troubles with the SEC detract from his effectiveness as a self-appointed spokesperson for the shareholders. Moreover (and again, this is just my personal view), the angry, emotional tone of Mr. Mandel's communications,* ***however justifiable****, seems counterproductive.*"

There is no question that Simons' echo chamber of lies have made for interesting bedfellows with Marc Mandel and Larry Wert.

To be perfectly clear, Wert's declaration of Mandel's "***however justifiable***" communications included a near daily barrage of menacing emails and the following January 18, 2016 death threat:

> Subject: ***Goodbye***
>
> "***You are such a pig. Stealing the life savings of good decent people.***
>
> ***I would be looking behind your back if I were you. Your life is in danger.***"
>
> (Mandel also sent menacing emails to both of my sons and my wife.)

(See January 18, 2016 death threat, attached hereto as Exhibit 22.)

The following emails closes the loop between Simons, Wert and Mandel.

On January 22, 2016, Mandel sent the following email to a group of shareholders:

> "*Winning on Wall Street investors in Ditto please be advised:*
>
> *You have or will be getting a call from a man,* ***John Strange****, who is a Private Investigator in Denver. Please do not respond to his pitch. He is incredibly dishonest and is preying on shareholders. A group of Ditto shareholders hired John Strange (Private Investigator) in December to do a background check on Joe Fox, family and Ditto Directors. Also, a search for money and assets. HE FAILED TO DELIVER THE WORK. He scammed us, and I have a few shareholders who can confirm this. He took our money delivering 600 pages of information nobody could understand.*

But that is not the worst part. He then took a "confidential shareholder list" and information paid for by the shareholders who spent $4,000, and started calling people trying to get another $30,000 to present a case to the FBI. This man is unethical and very sleazy. He did not have permission using the information the $4,000 shareholders paid for to help other investors.

Please do not lose another $1,500. But as always, your choice.

Just a warning. So far, our experience with John Strange has been very disappointing. We believe he crossed the line.

Wiz [Marc Mandel]

(See January 22, 2016 John Strange email, attached hereto as Exhibit 23.)

On January 29, 2016, one of our shareholders forwarded me the following email:

*My name is **John Strange**, I am a Licensed Private Investigator in Denver Colorado. I have been given your name from **Larry Wert** as a person that might want to join our small group, that includes **Larry Wert**, to try to recover **the funds stolen or misappropriated by Joe Fox** and his family as well as the other officers and directors of Ditto.*

Please contact me at my office if you have a few minutes to talk.

John Strange
303-592-3000 Office
[redacted] *Cell*

(See January 29, 2016 John Strange to shareholder's email, attached hereto as Exhibit 24.)

In early May of this year, two weeks after I filed a Malicious Prosecution/Abuse of Process lawsuit against Paul Simons, Jeremy Mann, Adam Stillman, Paul Huey-Burns and his law firm Shulman Rogers, **John Strange** and another thug showed up at my 83-year old mother-in-law's home in Long Beach, California where my family was visiting. The thugs threatened and attempted to intimidate me and my family. I immediately called 911. The police arrived and a police report was created. The police officer told me that **John Strange** admitted that he and his fellow "investigator" had been hired by **Marc Mandel** and **Larry Wert**.

I believe that Wert sent **John Strange** to Long Beach to try and intimidate me to not file a defamation suit against him and his employer (the Tribune Co.).

Coup de Grâce by Larry Wert

To truly understand the depths of Wert's all-out effort to harm me, on June 8th I was contacted by a reporter from Crain's Chicago Business. The reporter said that she was writing a

story on the demise of my former Company, my SEC investigation and the various lawsuits against the Company (which she attributed all to me). When I asked the reporter to wait till Monday to have a call with me, she said no. The reporter gave me 24 hours to respond to Crains' request. I told the reporter that I would not be available and I sent them a comment that I specifically told them they had to use in its entirety if at all. They chose to only say that I refused to comment for the story.

I knew right away that this was 100% initiated by Larry Wert. The content of the story confirmed this.

The article hit the stands on Monday June 13, 2016.

Crain's Headline:

> **"Frustrated Investors Led on Fox Hunt in LA"**

Sub-Headline:

> **"Serial entrepreneur Joe Fox left for LA, with investors like Larry Wert left in a lurch"**

The article included knowingly false facts.

Here is a quote from Crain's that clearly shows how far and wide Simons' echo chamber of lies have gone[28]:

> *"But former CEO Paul Simons, who was fired in 2013, sued the company and Fox in 2014, **alleging he was ousted in retaliation for alerting the SEC to corporate misconduct** by Fox. **A federal judge in Chicago agreed with Simons**, ordering Ditto in April to pay him $2.7 million."*

The reporter falsely claimed that the Honorable Judge Leinenweber ruled that Simons was "***ousted in retaliation for alerting the SEC to corporate misconduct by Fox.***" Nothing could be further from the truth. First, while the reporter lied by implying that the judgment was on the merits, it was a default judgment only against Ditto Holdings after the Companies had been destroyed by Simons and were unable to maintain corporate counsel in that case. Second, it was another blatant lie that, "***a federal judge in Chicago agreed with Simons.***"

Larry Wert, who had an opportunity to do so, chose to not correct this false fact.

It is quite clear that Wert's efforts to harm me with the Division has continued unabated. This would include the inclusion by the Division in its Brief in Opposition to my Motion for Petition for Review, of my participation in the World Series of Poker annual tournament most definitely provided by Larry Wert. I am sure that a proper inspection of the Division's communications with individuals such as Larry Wert, Ilene and Robert Mann and

[28] http://www.chicagobusiness.com/article/20160611/ISSUE01/306119994/frustrated-investors-led-on-fox-hunt-in-l-a

Paul Simons, will prove me correct.

Hostility by the Division and Attempts to Prejudice Me to the ALJ, Commission and the Public

I am obliged to bring to the attention of the Commission several examples of personal hostility toward me on the part of the Division.

On page 9 of the Division's Brief in Opposition to my Petition for Review, the Division made the following false and prejudicial statement:

> "*Fox harmed investors by failing to provide them with the information that they were entitled to and that they needed in order to make fully informed investment decisions.*"

This contention is overzealous and tendentious, and unfortunately emblematic of the attitude of the Division toward me. A failure to provide elements of financial disclosure required under the rules does not in itself *harm* investors. The reason my Company's investors (accredited and non-accredited) were harmed was that the Company failed[29] due to the immense pressure created by the malicious efforts of Paul Simons and his young confederates. If the Company had been a financial success, would the Division be arguing that investors who had not received audited financials had been *harmed* as a result?

On page 9 of the Division's Brief in Opposition to my Petition for Review, the Division made the following false and prejudicial statement:

> "*In connection with his personal sales, Fox did not take any steps to determine whether the investors who purchased his personal shares of Ditto Holdings stock were sophisticated or provide them with access to financial statements or other required information about Ditto Holdings.*"

The Division goes out of its way to make it appear that I blocked access to information requested by the perspective purchaser of my shares. That is not true and the Division adduces no evidence that it is. The Division also falsely claims that I did nothing to determine if the purchaser was sophisticated. While the representation by the purchaser that he/she was accredited[30] was omitted from the form I had obtained from a company lawyer, every purchaser of my shares had to make a significant amount of representations, including the following:

> "*All documents, records and information pertaining to a purchase of the Shares which have been requested by Purchaser have been made available or delivered to Purchaser;*

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[29] That is not to say that the 38 non-accredited investors should not have received audited financials and other related disclosures.

[30] As I have previously stated, because the vast majority of the individuals that purchased my shares were accredited existing shareholders, I wrongfully believed that ALL of the purchasers were accredited. There were in fact 2 non-accredited investors, or which only one was an existing shareholder.

Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

Purchaser has obtained professional advice, including legal, accounting and tax advice, in connection with his purchase of the Shares, or has made an informed decision not to seek such advice;

Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives"

(See Stock Purchase Agreement, attached hereto as Exhibit 25.)

On page 11 of the Division's Brief in Opposition to my Petition for Review, the Division made the following prejudicial statement:

> *"There is no dispute that Fox knew that Ditto Holdings was selling securities to non-accredited investors as Ditto Holdings made a series of Form D filings claiming that its offerings were exempt under Rule 506 and reporting that it sold securities to non-accredited investors."*

No one ever disputed that Ditto Holdings sold some securities to some non-accredited investors. The fact that the Company filed a series of Form D's reporting the sale to non-accredited investors should actually be evidence that we were conscientious about proper reporting and that we did not know we were not proving enough financial disclosure under Rule 506.

On page 13 of the Division's Brief in Opposition to my Petition for Review, the Division made the following statement:

> *Just days after the OIP was entered, Fox and Ditto Holdings issued a press release stating that their settlements with the Commission involved "inadvertent rules issues" and sent an e-mail message to Ditto Holdings' investors stating*

that he and the company had "been vindicated" and that "the SEC backed into what we consider inadvertent technical rules violations."

One has to only look at the Motion for Sanctions for Perjury (see Exhibit 26), as well as my previously provided April 22, 2016 Malicious Prosecution case against Paul M. Simons, Paul Huey-Burns and others, to fully understand the facts surrounding my assertion of vindication, which the casual observer would have recognized as referring to Simons' false allegations and not, as claimed by the Division, SEC rules.

On page 15 of the Division's Brief in Opposition to my Petition for Review, the Division made the following highly prejudicial statement:

> *"Further, Fox agreed to pay disgorgement, prejudgment interest and a civil penalty pursuant to a payment plan with the final payment due on June 18, 2016. (OIP at 5.) To date, Fox has not made any payments.[31] (Pre-Hearing Conference Tr. at 19.)"*
>
> **Division's Footnote 3 on page 15 of their Brief in Opposition to my Petition for Review**
>
> *"Although Fox claims he does not have money to pay his disgorgement, prejudgment interest or civil penalty, he apparently was able to find money to pay the $10,000 entry fee into the World Series of Poker Main Event in Las Vegas last month. See Main Event End of Day Report for Day IC, line 871 (available at http:/ /www.wsop.com/pdfs/reports/l4968/Ev68-Flight-C-Counts-by-Name.pd0. We request that the Commission take official notice of this information pursuant to Rule 323 of the Rules of Practice."*

The Division's personal animus towards me is glaringly exposed. First, the only reason the Division brings up my playing in the World Series of Poker was a salacious effort to prejudice me to the Commission and all other interested parties to these proceedings. As if poker is still a seedy backroom game with six-shooters at the ready. Second, it was an extreme effort to impeach my honesty to say that while I have not been able to pay the $205,000 in fines, I was "*apparently was able to find money to pay the $10,000 entry fee*". Falsely intimating that if I could find $10,000, I should certainly be able to find 20 TIMES that amount ($205,000).

However, the Division is eager to use information that it knows is being fed to it by certain individuals who are highly antagonistic to me and our Company, in a continued effort to prejudice these proceedings. This would be similar to the Division's knowingly false comments that "***Given his lengthy career in the penny stock world[32]***" the ALJ should "***impose***

[31] I have made it clear to the Division on more than one occasion, that I am now impecunious.

[32] The Division was well aware that throughout my entire career, I never sold, promoted or even allowed the trading of, a single share of a penny stock.

a collateral associational bar and a penny stock bar against Fox, with the right to apply for reentry after five years", when, in fact, I have **never** been associated with the "penny stock" world. (Division's Reply in Support of its Motion for Summary Disposition.)

Since the Division chose to raise this (non-) issue, I am obliged to reply. For the record, I am an experienced and often successful poker player. I have played the World Series of Poker Main Event for the last five years. In 2015, I won nearly $100,000 playing poker tournaments that cost as little as $540. This included winning nearly $50,000 at the Main Event. (See Card Player Magazine stats for Yosef Fox, attached hereto as Exhibit 27.)

Unfortunately, since nearly every dollar of my winnings was contributed in an effort to salvage my failing Company, I had to get a "backer" for this year's entry fee,[33]where I was not as successful as previous years. It is apparent that no item of salacious gossip about Joe Fox is too tawdry for the Division to embrace.

(As an aside, Fred Smith, founder and CEO of FedEx, famously kept FedEx alive during its infancy through his blackjack winnings[34].)

Additional Hostility by the Division

In October 2014, Simons disclosed in an improper filing before the Illinois Appellate Court that he and Jed Forkner (counsel for the Division of Enforcement) were in frequent communication, and that Mr. Forkner extraordinarily accommodated Simons by going out of his way (through a Washington, D.C. office of the SEC) to procure for Simons a copy of a document that was not then available to the public.

When we asked Mr. Forkner for a complete copy of the email in question, as the copy filed by Simons with the Appellate Court was truncated, Mr. Forkner advised that he was directed by his superiors not to provide the unexpurgated email without a subpoena.

As was explained to Mr. Forkner at the time, we could not get a subpoena, as (1) the Circuit Court case, *Ditto Holdings v. Simons*, was stayed while the denial of Simons' SLAPP motion was on appeal (the denial was ultimately affirmed by the Illinois Appellate Court), and (2) the federal case was practically stayed while the District Court had Ditto's motion for abstention under advisement.

It was both anomalous and alarming that Simons, whose complaint to the SEC had been shown false in every respect, should be able to procure a non-public document with, Mr. Forkner's eager assistance, without a subpoena, but rather merely through an email request, while Ditto's counsel could not obtain from Mr. Forkner a complete copy of an email that is part of the public record – the Simons-Forkner emails placed in the Appellate Court record by Simons himself.

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[33] It is a very common practice for poker players to have "backers" of their tournament "buy-ins". If you end up winning money, you share an agreed upon percentage with the individual(s).

[34] http://www.businessinsider.com/fedex-saved-from-bankruptcy-with-blackjack-winnings-2014-7

No Fee Waiver

During the final stages of the OIP "negotiations", I asked the Division (who had seen my sworn personal financial statement showing a negative net worth), if the SEC would agree to waive the fine after it was imposed. While the Division concurred that the SEC was capable of doing so (and has done so in the past), they said that they would not even consider this in this matter.

Privileged Emails

In late 2013, we provided all emails as requested by the Division. What we didn't know at the time, was that my head of technology (and best friend with Jeremy Mann's brother) chose to go behind the Company's back and send the Division all of the attorney client privilege emails (through at least October 31, 2013) that were separated out from all the rest. He must have thought that he was going to be able to hurry us through his actions.

The Division never informed us that it received these privileged emails (which were clearly marked in many cases). Because of a judge's discovery rulings in our civil lawsuit, I was forced to share the entire SEC hard drive with all 350,000 pages with Paul Simons. Because the Division never informed us of the malicious act, we did not know that all of these privilege emails were included.

To be clear, even after having access to ALL attorney client privilege emails during the onset of the investigation, the Division could not find evidence that one of the nefarious claims by Paul Simons was true. Nor could it find any evidence of true scienter in the unintentional violation of Section 5.

Conclusion

In summary, in its zeal to take a scalp, the Division has eagerly soaked up any and every salacious accusation made about me, without having made the slightest effort, in any such instance, to ascertain the fairness or validity of those accusations. This has had a significant impact on their efforts to extract the most amount of flesh through the OIP and their Motion for Summary Disposition.

Associate Justice of the Supreme Court Samuel Alito has written: "*Our criminal justice system, however, is not purely adversarial. Consider, for example, the typical criminal case with a prosecutor and a defense attorney. At least one of these — the prosecutor — is not supposed to behave like a single-minded opponent or adversary of the defendant. As the Supreme Court has said in a very famous passage that almost every prosecutor and criminal defense attorney in the country has memorized, the prosecutor is not supposed to be the representative of an ordinary party to a controversy. The objective of the prosecution in a criminal case is 'not that the prosecution shall win the case but that justice shall be done'* (emphasis added)."

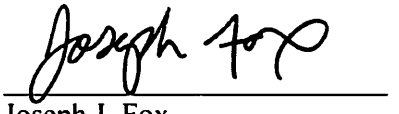
Civil enforcement attorneys also represent the public and have the self-same professional and ethical obligation to seek a <u>just</u> result, rather than single-mindedly pursue a victory. The lawyers who have doggedly sought to take a scalp, consisting of my ability to earn a living in the securities industry (as well as my good-name), have <u>failed</u> to meet that standard. The Division's

elision of relevant facts favorable to the Defendant, and misstatement of other facts, its highly tendentious and misleading interpretation of cases, as well as its "Captain Ahab-like" pursuit of sanctions that are vastly disproportionate to the actual wrongdoing as well as case precedents, bespeak a personal animus and agenda that are not a credit to the Securities and Exchange Commission nor any system of justice, and should, in all events, not justify the imposition of a collateral bar in this case.

The Division's Motion for Summary Disposition for a collateral bar should be denied with prejudice.

Dated: September 21, 2016

Respectfully submitted,



Joseph J. Fox

EXHIBIT 1

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. 3-16795
JOSEPH J. FOX)

ADMINISTRATIVE PROCEEDINGS - PRE-HEARING CONFERENCE
PAGES: 1 through 38
PLACE: Securities and Exchange Commission
175 West Jackson Blvd., Room 900
Chicago, Illinois 60604
DATE: Monday, March 21, 2016

The above-entitled matter came on for hearing, pursuant to notice, at 1:00 p.m.

BEFORE (via telephone):
CAMERON ELLIOT, ADMINISTRATIVE LAW JUDGE

Diversified Reporting Services, Inc.
(202) 467-9200

APPEARANCES:

On behalf of the Securities and Exchange Commission:
JEDEDIAH B. FORKNER, Senior Attorney
ANNE C. McKINLEY, Assistant Director
JOHN E. BIRKENHEIER, Supervisory Trial Attorney
Division of Enforcement
Securities and Exchange Commission
175 West Jackson Boulevard
Suite 900
Chicago, Illinois 60604

On behalf of the Respondent (via telephone):
JOSEPH J. FOX, PRO SE

P R O C E E D I N G S

JUDGE ELLIOT: We're here in the matter of Joseph J. Fox, Securities and Exchange Commission Administrative proceeding ruling. I'm sorry, Administrative Proceeding No. 3-16795.

My name is Cameron Elliot, Presiding Administrative Law Judge. Can we have appearances from counsel, please?

MS. McKINLEY: On behalf of the Division of Enforcement, you have Anne McKinley, Jed Forkner, and John Birkenheier.

MR. FOX: Your Honor, I'm the respondent, Joseph J. Fox, and I'm here pro se.

JUDGE ELLIOT: All right, very good. Okay. So I sent out my order in which I described where I think the case stands, and I want to be clear from the beginning that when I said at the end of the order that we may need a hearing in this case, I mean that very, very -- I was very deliberate about that.

I was quite serious. We may need a hearing or we may not. It just depends. And the area where I think that I really need some more help is in the two Steadman factors that we discussed in the order, scienter and then essentially Mr. Fox's

professional status, if you will, whether his occupation presents an opportunity for future violations.

One of these issues is uniquely in the control of Mr. Fox; that is, by his occupation, and I understand the parties dispute scienter, but all I really have to go on for scienter is simply what's in the OIP, and then -- I guess it was the uploaded e-mails that Mr. Fox sent out after the OIP issued, and that's it.

So let me first turn to Ms. McKinley. Is there anything more that you can send me, in the way of transcripts or other documentary evidence, or anything else that might shed some light on Mr. Fox's state of mind?

MS. McKINLEY: Your Honor, we believe we do have testimony transcripts from Mr. Fox's testimony during our investigation that does shed light on that issue. To be frank, it doesn't shed a tremendous amount of light, but it may be helpful for you to see. So we're certainly happy to provide that to you.

As far as other documents, there really aren't any other documents that we think would assist you with any finding on scienter. Though,

there is another FINRA filing regarding Mr. Fox's licensure from August of 2015, in which he sought to reinstate his licensing. That also may be of help.

JUDGE ELLIOT: Okay. Well, I'll get to that in a moment, but why don't we do this, I've still got some time left before I have to issue the initial decision. So I think I can consider yet another round of briefing on this issue. I would like to start with that.

If it turns out that I really feel like we have a live animal, I'm at the point now we're probably going to have to ask for an extension of time on the initial decision.

MR. FOX: Your Honor, if I may, this is Joe Fox.

JUDGE ELLIOT: Yes. Hold on just a second, Mr. Fox. Hold on just a second.

MR. FOX: Sorry.

JUDGE ELLIOT: As I was saying, I think I'm probably going to have to ask for an extension if we do end up having a live in-person hearing. So I think on the issue of scienter, I'm probably going to ask the parties to send me some more documents, whatever it may be.

Now, Mr. Fox, you, of course, will get a

chance to submit more evidence, too, but if that doesn't answer your question, or answer the concern you were about to raise, go ahead and tell me what you were about to say.

MR. FOX: Your Honor. Okay, well, thank you very much for this opportunity. And, for the record, I asked for a hearing, in-person hearing, with the Division while we were talking about settlement from the get-go.

I want to be able to get everything out there in the open. Like, many times I volunteered with the Division through the investigation, I volunteered to meet with them. I volunteered information. I've been 100 percent forthcoming.

I asked to have a hearing. They did not want to guarantee a hearing. And I would like to make a statement, if I may, that I think really goes to where we're at in this proceeding, if I may, Your Honor.

JUDGE ELLIOT: Go ahead. Yes, go ahead.

MR. FOX: Thank you, sir. And obviously I've never done this before, and I've never done pro se or not pro se or with an attorney. Excuse me if I'm a little nervous.

On September 8th, an order was finalizing

my settlement discussions with the Division of Enforcement. During the settlement discussions, I pushed for bifurcated settlement with non-monetary sanctions to be determined by Your Honor through the ALJ process.

I'm happy to accept the monetary sanction of $35,000. I asked for the bifurcation, and the Division told us in no uncertain terms, they would not process the agreed-upon settlement for the company until I finalized my own settlements.

Your Honor, since my company was collapsing under the weight of the former employee, who proved to be a false, malicious [redacted] I needed to give my company and shareholders a fighting chance.

And almost as importantly, I should not have to accept any industry suspension for the following reasons: A, I've been an extremely conscientious broker or executive, as I've laid out in detail in my court papers.

B, I have a well-documented career of always putting my customers and shareholders first. C, it's absolutely non-public assessment to suspend me for any period of time.

D, any violations were 100 percent

inadvertent and not done so recklessly. And E, most importantly, I do not do anything with scienter.

So the proceedings can fully determine if there was a heap of a non-monetary assessment, again with the Court setting a briefings schedule.

The Division filed a lengthy motion for summary disposition where they tried to paint me as an unrepentant recidivist and asked for a collateral bar offered by you. I then filed a detailed reply.

The Division then filed its reply where they chose to label me falsely as someone who spent the majority of his career in a, quote, a penny stockbroker.

Although the motion was fully briefed for ruling, this Court, on January 15, 2016, in its effort to leave no stone unturned, entered a new order inviting the SEC to submit a supplemental briefing addressing solely the alleged sinter, a necessary elements of the Division's own claim against me, an element the Division did not revise, let alone prove in its motion.

The Division promptly filed a supplemental brief in support of its motion for summary disposition, which I replied to in detail, as it were, after being fully briefed with the Division's

motion for summary disposition and the supplemental brief in support, and of course my responses.

This Court thoughtfully held that there was no scienter, and the SEC's motion was denied, albeit without prejudice. I respectfully ask the Court to consider entering the final order that denies the motion with prejudice.

The third thing that is on the Division is to prove scienter. The Court ruled against them. You made it quite clear that the scienter is a necessary element, and I quote, you must consider when determining whether the sanctions sought by the Division on the public venture, end quote.

That is in your January 15 order, and you cited two case for the same requirements, the Gary M. Korman case, and the Steadman versus SEC case.

Respectfully, I do not believe it's in the public's best interest to have the matter fully briefed, and then after accepting and finding that an element of the claim had not been proven, have the same claim continue to hearing.

I just don't see how this matter can proceed on these facts, and the failure of the Division to prove scienter not once but twice, to allow a third bite at the apple seems unjustified on

this record.

Most importantly, Your Honor, there is absolutely and unequivocally, as Ms. McKinley just stated, no official documentation, testimony, or fact for that matter, that the Division would be able to provide that would change the fact that there was never any scienter.

If they haven't, Your Honor, which would be impossible because it doesn't exist, they would have certainly already made it available to you, to the Court. I'll end here.

I'm praying with the Court to enter a final order denying the SEC's motion for summary disposition with prejudice. Thank you, Your Honor.

JUDGE ELLIOT: All right, very good. Well, I hear what you're saying, Mr. Fox. Let me hear if the Division has anything to say in response to that. Ms. McKinley?

MS. McKINLEY: Your Honor, first of all, we would respectfully disagree with Mr. Fox's characterization of the Steadman factors and how they are waived to determine whether a bar is in the public interest.

It is a true weighing under the case law, and these aren't elements of a particular claim. So

the factors -- while one factor may weigh in favor of the respondent, other factors may weigh in favor of the Division's request for a sanction. So we do disagree with that characterization and feel that really another round of briefing may actually get the information that may assist in making a determination on this issue.

JUDGE ELLIOT: All right.

MR. FOX: Your Honor, if I may.

JUDGE ELLIOT: Go ahead, Mr. Fox.

MR. FOX: Okay, thank you. Your Honor, you made it clear in your initial findings that there was not any evidence, or they did not prove anything. You gave them the opportunity to provide more, if it was necessary, and they did their reply.

They included nothing new, because there was nothing additional; and now, Your Honor, even Ms. McKinley stated, except for what they're saying on August of '15, where I reapplied for the SEC, of which by the way was only done because we would no longer have these Series 27 financial operations principal, and I was dealing with the SEC because no one else was in the company. We were going out of business, and the FINRA knew that.

So it is a mischaracterization of what was

going on, and it never processed through that, nor did I go through this whole MC200 process. I was trying to do what was right for the company, which, Your Honor, I've done for 22 years.

And they've never once ever acknowledged the fact that I have been a conscientious person in this industry for 20 years, not just as a broker, but the CEO of brokerage firms that have been innovative that could have easily had all kinds of [redacted] against them, and I have a spotless compliance record.

I took the company public, Your Honor. I went through the SEC process. I never had an issue. I never had concerns, and I never for one second did anything with intent or scienter. I took responsibility.

Ms. McKinley and Mr. Forkner made it clear or believe that I did not, even though from day one, as testimony will show, I did make it clear that I took responsibility, if I was using the wrong exemption or the wrong definition within the exemption 504 and 506.

As I showed, Your Honor, there is no information within the study material or the test that breaks down the actual disclosure requirement.

So, Your Honor, clearly there is no additional information of any substance, if at all. You already made it clear, Your Honor, regarding the Steadman case, that scienter is a big factor, and there is no scienter, Your Honor.

JUDGE ELLIOT: Okay. Let me move to the second issue, which is the question of Mr. Fox's occupation.

The evidence that I've seen so far, and I'm looking at the OIP, which of course I can take generally as true, the submissions by Mr. Fox, which I've looked through carefully, just the recent comment by Ms. McKinley just a few moments ago, Mr. Fox's attempt to get another license in August of last year, I have to say that you take all that together, I find myself, frankly, very confused about what is going on with Mr. Fox and his professional status.

So let me just ask you, Mr. Fox, to --

MR. FOX: Okay.

JUDGE ELLIOT: -- tell me about yourself. How do you make a living right now? What is the status of your company? What is the status of whatever licenses you have now or used to have or trying to get? Just tell me about yourself.

MR. FOX: Thank you, Your Honor. Well, as I mentioned, in regards to my license, I withdrew voluntarily in December of 2014. I also made it clear at that time to the SEC that I have no intention of staying in the brokerage business, being in the brokerage business, running a brokerage firm, even though my parent company is an up bearing company at the time, I did own a brokerage firm, but I was not going to be involved in it.

I didn't want to be. I actually hired this guy Paul Simon to become CEO of the brokerage firm, but he failed to get licensing. So the only reason I went back in August because I told FINRA, and they need needed me to do it, we ordered a FINOP.

We had the money to hire an outside FINOP. The company was on verge of collapsing. Somebody had to be the one to communicate with FINRA, during for focus filing and things of that nature. It was a brutal time.

MS. McKINLEY: Mr. Fox, I'm sorry, the court reporter can't take down what you are saying.

JUDGE ELLIOT: Hold on, Mr. Fox.

MS. McKINLEY: I'm so sorry, but the court reporter cannot transcribe. He's moving a little too quickly, Your Honor. Mr. Fox, could you speak a little more slowly?

MR. FOX: Okay. I'm sorry about that. In December of --

JUDGE ELLIOT: Hold on a second, Mr. Fox. Hold on a second. Let me turn to the court reporter.

Can you read back your transcript, the last part of your transcript that you were able to get down clearly?

(The reporter read back the record.)

JUDGE ELLIOT: Go ahead, Mr. Fox.

MR. FOX: Sorry about that, ma'am. I really apologize. The name is FINRA, F-I-N-R-A, and they regulate the brokerage industry, along with the SEC, of course.

So at the time, we were out of money. The company was on the verge of collapse. I was the only person to be able to speak to FINRA, as we were going through this process. It wasn't like I was trying to be a broker or even the CEO. That was not my objection. FINRA absolutely knew that.

Unfortunately, because I used the word or allowed the word "willful" to be included in my order, only because, of course, the definition in

the footnote, which isn't consistent with the actual definition of wilful, but I understand that, that it would take a process called MC200 to override that, which I did not go down that path; and openly, I let FINRA know I would be communicating with them as a representative, but not as a licensed individual. So that is that.

On December 18th, 2015, we were forced to file a broker-dealer withdrawal, a BDW, with the SEC and FINRA, because we were out of capital. We knew that we were no longer -- we no longer had enough or would no longer have enough proper capital, net capital, to maintain a brokerage firm.

So I talked to FINRA. I let them know. I even let the SEC know, and we had to withdraw. Since then, we tried to figure out if the company could survive as a technology company because as Your Honor hopefully as you read, we did build some incredible technology that did receive some significant media attention.

I did get some attraction with customers, generating millions of dollars in revenue; but, unfortunately, because of the efforts of other people, as well as the weight of the investigations and so on, that I have to say that was brought on by

information by an individual that none of which, as I mentioned in my document, is a part of this process now. It doesn't change the fact we had to deal with that.

My entire company has collapsed. We have four or five judgments from vendors against us. We are trying to figure out if we can figure out where to get the money to file a proper bankruptcy for the company. There is no operations. There is no office. There is no phone.

We are -- our shareholders, and myself, my family, and my mother, we lost our entire investment. I, Your Honor, I am broke. I have nothing. I've been left with nothing.

And I, right now, am living in a house that's owned by my in-laws, thank God. I am living by the grace of my in-laws. I have no job. I can't even apply for unemployment because my last paycheck from the company, even though we were around for these two years, was more than two years ago.

So the State of California said, "Sorry, we cannot give you unemployment." So I have to borrow money even to fill my tank, Your Honor. I have been destroyed by this. My company has been destroyed.

There was never a scienter. There was never an intent. I've been nothing but conscientious for 20 plus years. I have been labeled falsely on several different fronts. I've taken so much abuse from this whole process. Your Honor has been unbelievably fair in its assessment, and I truly believe that, look, I'm not looking to be in the brokerage business, Your Honor.

I will not allow, without a fight, to lose or to be considered someone who should have been barred or banned. And the fact that they were looking for one year, when I asked for the bifurcation, they were looking for one year that I could not accept, and then to go to five years and whatnot, to find various excuses which weren't true to try to be a penny stock guy, even to get that one year.

I mean, this has been an unbelievable circumstance, Your Honor. I've done -- look, I take responsibility for what occurred. I had the SEC review my documents, the same documents, and the same exact circumstances in 1999, and nothing told me otherwise that I was working off the wrong exemption.

I have always looked out for my

shareholders. It's well documented. It's on the SEC's website. I can point to three or four different circumstances, and I've taken as a big fine, which I have not been able to pay. I don't know how I can pay it.

The told the SEC from the Division, excuse, from day one that I don't have the money to pay it. I lost everything. The stock that I sold is gone. I put every last dollar to try to keep the company live, and other people get a waiver after they're fined.

I asked the Division, "Would you consider that?" They said, "No, we won't." So everyone else gets a waiver -- not everyone, but people do, but not Joe. I don't know why, but not Joe.

And so I have taken more for something that was not done with scienter, that was not done advertently, the one that I took responsibility for the, one that I've assured Your Honor and the Division that I would never violate again.

To pile on with a summary disposition for a collateral bar is too much, but Your Honor has ruled now twice, and I've been here, Your Honor. I'm not looking to get back into brokerage. I don't know how I'll do past this moment.

I don't know. I really do not know. I know I don't have money. I know I have to borrow money for anything that I have for needs. I think I'm negative in my one bank account right now, but I will figure it out. And, thank God, I have family that's helpful. Thank God.

Right now I do not know what my plan is, but I can promise you, Your Honor, that it's not going to be in the brokerage business. I've been so abused by a membership organization which, by the way, Your Honor, for 20 plus years I never had one issue, one customer complaint on my FINRA, or on the brokerage side.

Not an issue with arbitration, not a customer complaint, not a single issue after millions of trades with customers. I was so conscientious. I gave away so much money back to customers, whenever there was a technical issue, a trade issue. E*TRADE, Ameritrade, nobody does that, but I did that.

I stood by my customers. I stood by my shareholders, always. So, Your Honor, I don't know what my future is going to be in terms of what I'm going to do. I don't plan on being in the business.

I cannot accept a bar, and if you say to

me, "Joe or Mr. Fox, you tell me right now you're not going to be in the business, I won't bar you. We'll call it a day."

I'll tell you right now, I'll give you my word. I have no desire, and I have not been in any one of those categories that are included in the collateral bar.

JUDGE ELLIOT: Okay.

MR. FOX: Thank you, Your Honor.

JUDGE ELLIOT: Let me ask a few questions, Mr. Fox. First of all, let me make sure I understand here. The August 2015 application that you made, was that for a FINOP license?

MR. FOX: Yes, Your Honor. I have a Series 28.

JUDGE ELLIOT: Okay.

MR. FOX: Financial operations principal for agency broker.

JUDGE ELLIOT: Oh, I'm sorry. Okay. So you got a license then?

MR. FOX: I've had the license. I got a 27, the bigger one, back in 1995. I took on the 28th in, I think it was, January of 2010, when we decided to get back into brokerage, after an online real estate firm that I tried to take public as

well, and it's on the SEC website. And then so I have the 7, the 24, the 63 and the 28.

JUDGE ELLIOT: Okay.

MR. FOX: I'm sorry.

JUDGE ELLIOT: Those are current right now?

MR. FOX: No, they're not, Your Honor. I do not have any active licenses whatsoever.

JUDGE ELLIOT: Oh, I see. Okay.

MR. FOX: I have not since December of 2014.

JUDGE ELLIOT: All right. So I know there's a difference, at least based on reading the OIP, and all the evidence the parties have submitted, there's a difference between Ditto Holdings and Ditto Trade. You're saying that both of those companies are now out of business?

MR. FOX: Yes, Your Honor.

JUDGE ELLIOT: Okay. And have you ever worked in the industries, other than the brokerage industry?

MR. FOX: None of the industries that are included in the collateral bar, not the municipal bonds business, not the credit rating business, not the investment advisory business, nor have I ever

sold or promoted or offered a penny stock.

So I've never been in any of those, and I have no intention, Your Honor, of doing any of those ever.

JUDGE ELLIOT: Well, okay. What was the share -- what was the typical share price for -- I'm sorry, I can't remember if it was Ditto Trade or Ditto Holdings. You sold one of those stocks. What was the typical share price?

MR. FOX: You're talking about the recent company, or the company we took public, Webb Street Brokerage Firm?

JUDGE ELLIOT: Not Webb Street. The one that's in the OIP. I'm sorry, I forget which one it is. I think it is Ditto Trade, which one -- the one where you sold the stock of that company within the last six years or so.

MR. FOX: Yes, Your Honor. That is Ditto Holdings. Ditto Holdings was a Delaware corporation that wholly owned Ditto Trading, Inc., an Illinois corporation, and was a -- was a member of FINRA, a broker-dealer. That was the parent.

JUDGE ELLIOT: Okay. What was -- did it ever trade at below $5 a trade?

MR. FOX: Your Honor, it was never public.

It was only a private company.

JUDGE ELLIOT: Okay.

MR. FOX: And, Your Honor --

JUDGE ELLIOT: I confess, I'm now completely mystified. Let me turn to the Division.

Can you shed some light on this? Is it your position that Ditto Holdings was a penny stock?

MS. McKINLEY: Your Honor, it is. While Ditto Holdings was not publicly trading during the time, it was offering its shares under Reg D, in a Series 506 offering, as well as some other offerings of Mr. Fox's own personal shares of Ditto Holdings, and all of the shares were sold at prices under $5.

The range I think was from about 50 cents to about a dollar-and-a-half.

JUDGE ELLIOT: Okay. All right. Well, thank you, Mr. Fox. Anything else you want to add?

MR. FOX: Yes, if I may. You know, I think you're as surprised as I was, Your Honor. Not to put words in your mouth, but I'm just blown away by saying that I was a penny stock guy. I was in the penny stock world my whole career, trying to stop me from being in the penny stock business, which was only a label that would hurt me because I've never been in the penny stock busy. I don't

ever plan to be.
I purposely did not even allow many penny stocks to be quoted or purchased on our website as the story in Barron's Magazine showed, and so we're a private company.
There is one line of a reference to a penny stock, and sometimes listed on the SEC website that I was able to find, one line. It said a penny stock is sometimes a private company, but the reality is this is not a penny stock. It was a private company.
I sold some of my founder shares under advice of counsel, under what's known as I believe 401-and-a-half, and the only mistake that was made there, Your Honor, is that my attorney unfortunately -- my in-house attorney provided me with the documentation. It did not have a section for being a credit investor.
And I believe the people that bought, because some of them were disingenuous, they already showed they were accredited. I believe they were accredited. I'm sorry that that was missing. I should have known that, but my attorney needs to put that in there.
I stool took responsibility for that, Your

Honor. I offered to pay back the two people for 42 or $47,000. I offered these individuals. They said, "No, it was not going to be part of the settlement." I was willing to repurchase when I had the money, and that was not part of it.
I took responsibility, but I was never a penny stock. My stock was not sold as a penny stock. It was a private company. Nobody, nobody considers us, a private company like ours, to be a penny stock. Your Honor --
JUDGE ELLIOT: Okay. Let me ask one more question. Suppose that someone were to offer you employment as an investment advisor, okay, I mean not individually, but you would be associated with a registered investment advisor, is that the kind of employment that you would be willing to take?
MR. FOX: Absolutely not, Your Honor. I've never acted as an investment advisor. I don't have the proper licensing to be an investment advisor.
I have no plan, nor will I ever, refile anything with FINRA ever, because they also put us through a two-year process just to walk away when it was all done and say, "We'll just defer to the SEC." Even after, even after a global disposition, all of a sudden, "Okay, there obviously is no real need for

this investigation."
I mean, we were coming -- people were coming at as from all sides. I have no desire to be in an industry that has no respect for somebody who has been so conscientious, and nobody can say otherwise of how I treated my firm, my customers, my shareholders and my employees.
So, Your Honor, I have no desire, nor will I be, an investment advisor. I'm going to work for an investment advisory firm. I'm not going to work for a municipal bonds company, a credit rating company, and absolutely not a penny stock company, but that does not mean that I can accept a documented suspension for something I don't deserve, Your Honor.
JUDGE ELLIOT: All right. Thank you, Mr. Fox. Ms. McKinley, do you have anything to say about what Mr. Fox has just explained?
MS. McKINLEY: Yes, Your Honor. I guess the one point that we would like to bring to your attention is that Mr. Fox has raised funds and owned four companies over the last approximately 20 years those four companies, two of them have been broker dealers, and directly connected to the brokerage business.

JUDGE ELLIOT: Okay.
MR. FOX: Excuse me, if I may, Your Honor.
JUDGE ELLIOT: Hold on, Mr. Fox. Hold on. Hold on, Mr. Fox. Let me ask a few more things of Ms. McKinley.
So as I understand, I don't mean to put words into Mr. Fox's mouth, but my understanding based on what he just explained is he doesn't know what he's going to do in the future, but he doesn't wish to work in the securities industry anymore.
Do you dispute that, Ms. McKinley?
MS. McKINLEY: This is, frankly, the first time we've heard in detail what his future plans are. We have no way or reason to dispute that.
JUDGE ELLIOT: Okay.
MS. McKINLEY: But I will say, Your Honor, that in December of 2014, Mr. Fox told us at that time, through his attorney, that he never had any intention of being licensed again, that he had withdrawn all of his licenses and wasn't going to do anything with respect to the securities industry again.
But then in August of 2015, this application for the FINOP was filed, and we were not notified of that fact at the time. So I guess we

have some skepticism as to Mr. Fox's assurances.
JUDGE ELLIOT: All right.
MR. FOX: Your Honor.
JUDGE ELLIOT: Mr. Fox, go ahead.
MR. FOX: Yes. Your Honor, that's a total mischaracterization of the facts. First of all, in December of 2014, Your Honor, I made it clear through my attorney that as part of a settlement, as part of the settlement to put this to bed, I will assure them that I will not be a part of the brokerage business.
That was a part of the settlement conversation. They refused to accept that, which would have been wonderful if they did because we would have had a bigger head start to clean this all up and get the company moving again, but they didn't. That was part of the settlement. That's one.
Two, they did know right away because the SEC is instantly notified of any communication on the FINRA -- sorry, Form U4. They know exactly what is what, and they've been tracking everything I've done for several years now. So to say they didn't know is an absolute falsehood.
And three, Your Honor, to say -- first of

all, they never asked me, they never asked when they said that we didn't tell them -- I'm sorry, Your Honor, I need to twist a little bit here.
They say, Your Honor, I started four different companies. It's actually, Your Honor, three companies, two broker-dealers, two parent companies with broker-dealer, and then one online real estate company. The first one I took public.
I built a self-clearing firm. It was worth half a million dollars. Shareholders made a fortune. We, unfortunately, got stuck with the bubble bursting. We went public in November of '99. The bubble burst in March. Our lock didn't expire until June of 2000. So all shareholders took 18, $19 from a dollar investment.
Our stock was never over three-and-three-quarters after the lockup, and we sold for under $2, and we took E*TRADE stock. The E*TRADE stock, the whole deal was $45,000,000. Their stock diminished before we were able to sell it because of 9-11. And then E*TRADE generated $350,000,000 in appreciation when they announced it.
So everyone got a better deal, our shareholders, E*TRADE who bought us, and then we did, which is why we needed to raise more money; but

the fact that I did that, and was successful for my shareholders and not for myself, and the fact that I dealt with this one, has nothing to do with what I'm going to do next.
I have been, unfortunately, Your Honor, not to sound dramatic here, but I have been tormented and destroyed by this entire process brought upon by somebody who is malicious, vindictive.
I don't want to get into that. It's already on the record, but, Your Honor, I have -- the details, I don't know what they said. I never told them what my plans were going forward.
Your Honor, they never asked me, and certainly not as of late did they ever say, "Mr. Fox what are your plans, or what are you going to do once this business has imploded?"
And I would have said the same thing that I told you, "I don't really know." If I had to venture a guess, I probably said, "I'm going to start to look into real estate, into getting into real estate." My in-laws own some properties.
Maybe I could help manage some of those properties. That's probably the direction that this will take. I do not know. I've been devastated,

Your Honor. I've been under the doctor, you know, to try to, you know, whatever make me -- I don't want anyone to feel sympathetic, because I know that is not the process here, but I've been under psychiatric care, therapy, since this all happened because of what has gone on and how malicious this process as has been.
You know, and that's why when Your Honor ruled, the way you ruled, it was such a breath of fresh air, the honestly and the forthrightness. I think we really definitely need to put this to bed, once and for all, Your Honor.
JUDGE ELLIOT: Okay. All right. Here is what I'm going to do -- well, I'll give the Division one more chance. Let me tell you what I'm inclined to do.
I'm inclined to accept Mr. Fox's representations about his plans, the current status of his licenses, the current status of his company, and his asserted lack of interest in participating in the securities industry. So I'm going to take that as true and offer that public interest factors.
Is there an objection to that from the Division?
MS. McKINLEY: No, Your Honor. Although,

I would like to just make sure the record is clear, we respectfully disagree with the characterization Mr. Fox had of settlement discussions. We actually have a letter from Mr. Fox's attorney that we would be happy to share with you describing not in any terms of settlement, but Mr. Fox's withdrawal of his licenses in December of 2014, and his intention not to be involved in the brokerage industry again.

JUDGE ELLIOT: All right. I understand.

MR. FOX: Your Honor.

JUDGE ELLIOT: Hold on. Hold on, Mr. Fox.

MR. FOX: I'm sorry.

JUDGE ELLIOT: Hold on, Mr. Fox. I don't need to hear anymore about that. The point here is that I don't really think there's much of a dispute between the parties on this.

As of December 2014, the way I understand it anyway, the parties are in agreement that, in fact, that's what Mr. Fox told the SEC, and then it turned out he felt the need to apply for a FINOP license in August of 2015.

Mr. Fox, do you agree with that?

MR. FOX: Yes, I do, Your Honor.

JUDGE ELLIOT: Okay. So I think that's

not really disputed between the parties. Okay. Anything else, Ms. McKinley?

MS. McKINLEY: No, Your Honor, not on that point. Thank you.

JUDGE ELLIOT: So I'm going to accept as true what I will call the occupational evidence that Mr. Fox has given me today. And on that understanding, the question then is, do I need anymore briefing on that? I think the answer is no.

As for scienter, Mr. Fox has convinced me that I've given the Division two bites at the apple, and I think that's enough. I don't really think that I need anymore evidence on this.

It sounds like Ms. McKinley's characterization of Mr. Fox's investigative testimony, that even if I were to look at the investigator's testimony, it would not be particularly enlightening.

So I'm not going to ask for any further briefing, and I don't think there is a need for a hearing at this point. So I will simply decide -- I will issue the initial decision based upon the record as it stands.

But just so the Division is on notice about this, I'm not sure what I'm going to determine

in the initial decision yet about Mr. Fox's state of mind. I may find that he acted with scienter. I may not.

I understand he disputes it, but I may find that there is sufficient information, if there's sufficient evidence in the record to conclude that he did, or I may find that he did not act in scienter. I don't know yet. I have to look at it again and think about it some more.

And, of course, if I determine that he acted with scienter, that will factor into whatever the sanction is, if any. And similarly, if I determine that he did not act with scienter, that will affect my determination of what sanctions will be imposed, if any.

So I don't think I need anything more at this point, and we don't need a hearing. So --

MR. FOX: Your Honor, may I ask when you expect to give your final ruling?

JUDGE ELLIOT: You know, I don't know. I will get it out by the deadline, and off the top of my head, I don't recall when the deadline is, but it will definitely be out before then.

MR. FOX: Thank you, Your Honor.

JUDGE ELLIOT: Mr. Fox, anything else you

want to say, any questions you have?

MR. FOX: No, Your Honor, I just really appreciate the Court's consideration.

JUDGE ELLIOT: All right. Ms. McKinley, anything else you want to add?

MS. McKINLEY: Nothing else from the Division. Thank you, Your Honor.

JUDGE ELLIOT: All right. So thank you very much. I think this has actually been very helpful to me having this discussion, and this matter is adjourned.

MR. FOX: Thank you, Your Honor.

MS. McKINLEY: Thank you.

(Whereupon, at 1:40 p.m., the pre-hearing conference was concluded.)

* * * * *

PROOFREADER'S CERTIFICATE

In the Matter of: JOSEPH J. FOX
ADMINISTRATIVE PROCEEDINGS - PRE-HEARING CONFERENCE
File Number: 3-16795
Date: Monday, March 21, 2016
Location: Chicago, Illinois 60604

This is to certify that I, Donna S. Raya, (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

(Proofreader's Name) (Date)

EXHIBIT 2

From: Paul Huey-Burns
To: "Paul M. Simons"; [redacted]; "Adam Stillman"; Danny Krakower
Subject: FW: Referral of Matter for Potential Investigation
Date: Monday, September 09, 2013 4:28:03 PM
Attachments: image001.jpg
CCE00000.pdf

[redacted]

PAUL HUEY-BURNS

phuey-burns@shulmanrogers.com | T 301.945.9241 | F 301.230.2891

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 PARK POTOMAC AVENUE, 6TH FLOOR, POTOMAC, MD 20854

ShulmanRogers.com

From: Paul Huey-Burns
Sent: Monday, September 09, 2013 4:20 PM
To: 'Phillips, Eric M.'
Cc: 'warrent@sec.gov'; 'bursonr@sec.gov'
Subject: Referral of Matter for Potential Investigation

Eric,

I realize that you are busy preparing for trial in the True North matter, but I'm hoping that you could review the attached letter or refer it to someone who is in a position to consider the allegations that it contains. (I've copied Bob and Tim as well.) The letter describes allegations of significant financial misfeasance by Joseph Fox, the Chairman of Ditto Holdings, Inc., the holding company for Ditto Trade, Inc. (a registered BD). Both Ditto Holdings and Ditto Trade have substantial operations in the Chicago area. These allegations were brought to our attention by Paul Simons, the signer of the attached letter, who is a Director and EVP of Ditto Holdings and CEO of Ditto Trade. (Mr. Simons, among many other things, is a former Managing Director of Credit Suisse Securities, where he served as

co-head of the US Private Banking Division.) The allegations are substantive and well-documented and, I believe, raise serious questions as to whether Mr. Fox and certain others involved in senior management have perpetrated or are in the process of perpetrating a fraud on Ditto Holdings' shareholders, and perhaps others. (Ditto Holdings currently is raising capital through a Reg D offering.) Mr. Simons and I would be happy to discuss these allegations with you or any of your colleagues.

Mr. Simons delivered the attached letter to Mr. Fox (and also to Jonathan Rosenberg, the other member of Ditto Holdings' Board of Directors, and to Stuart Cohn, Ditto Holdings' General Counsel) this morning. Mr. Simons requested that the Board initiate an investigation into the matters described in detail in the letter. Mr. Simons has received no direct response and is concerned that Mr. Fox and others involved in senior management have decided not to respond and may be preparing to take retaliatory action against Mr. Simons and two other more junior executives, Jeremy Mann and Adam Stillman, who agree with Mr. Simons that there is significant evidence of Mr. Fox's misfeasance and who support Mr. Simons' actions. Messrs. Simons, Mann and Stillman also are concerned that Mr. Fox and others may attempt to create post-hoc documents or other materials to justify the apparently illegal transactions.

As I said, Mr. Simons and I are available to discuss these issues at your earliest convenience.

Thanks

Paul

PAUL HUEY-BURNS

phuey-burns@shulmanrogers.com T 301.945.9241 | F 301.230.2891

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 PARK POTOMAC AVENUE, 6TH FLOOR, POTOMAC, MD 20854

ShulmanRogers.com

EXHIBIT 3

Gmail

Adam Stillman [redacted]

Just an FYI....

Brian Lund [redacted] Sun, Sep 8, 2013 at 9:19 PM
To: Adam Stillman [redacted]

I just got this text from Joe:

Joe: I have not spoken to Adam yet. I am trying to figure out how to keep him till after stocktoberfest. Don't talk to Adam about anything yet.

Me: Ok, mum's the word.

Joe: We will talk more tomorrow. Thanks,

Me: Np.

This text tells me two things.....

A. Joe doesn't want to bring you into this yet because as long as he has only talked to Stu and I, he can still back off this while saving face.

B. He has calmed down a bit.

However.....I think there is no doubt that things are going to come to a head with Paul and Joe, if it is not this week, then it will be a month from now. I don't see, baring a miracle, how Paul stays with the company.

I think you and I need to discuss this, the ramifications and contingencies.

-B

P.S. I hope you got sex tonight.

P.P.S. Unless you really like her, in which case I hope you had a deep spiritual bonding.

Adam Stillman [redacted] Sun, Sep 8, 2013 at 9:35 PM
To: psi65@me.com

Brian has spent time tonight trying to talk joe out of firing you. Brian is freaking out and calls this "his worst nightmare".

Joe has not contacted me and doesn't want to because he knows how I would react.

Paul M. Simons <psi65@me.com> Sun, Sep 8, 2013 at 10:37 PM
To: Adam Stillman <[redacted]

Thanks

Paul M. Simons

psi65@me.com

Work (312) 263-5400
Cell [redacted]

EXHIBIT 4

SIMONS PERJURY LIST FROM HIS FEDERAL FORM [redacted]

On December 9, 2013, Simons signed a "[redacted] DECLARATION" on his Form [redacted] (official [redacted] application) submitted to the SEC.

I declare under penalty of perjury under the laws of the United States that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I fully understand that I may be subject to prosecution and in eligible for a [redacted] award if, in my submission of information, my other dealings with the SEC, or my dealings with another authority in connection with the related action, I knowingly and willfully make any false, fictitious, or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statements or entry.

Signed by Paul M. Simons

[redacted] **DECLARATION**

I declare under penalty of perjury under the laws of the United States that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I fully understand that I may be subject to prosecution and ineligible for a whistleblower award if, in my submission of information, my other dealings with the SEC, or my dealings with another authority in connection with a related action, I knowingly and willfully make any false, fictitious, or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statement or entry.

Print name Paul M. Simons

Signature [signature] Date 12/9/2013

Perjured Statement 1 from Simons December 9, 2013 Form [redacted]:

Under the section titled "Nature of Complaint", Simons made the following perjured statements:

"Theft/Misappropriation. Misrepresentation/Omission. Offering fraud. Corporate disclosure. False and misleading statements. Financial fraud. Selective Disclosure. Illegal security sales. Improper payments of finders fees. Fraudulent inducement. False Form D filings. Violation of Dodd Frank and Retaliation."*

(* Simons alleged in his September 9, 2013 "Board Demand Letter" that Joe Fox committed illegal securities sales by selling his shares concurrent with the Company selling its shares and redeeming others. The SEC did not find any such alleged illegal securities sales by Joseph Fox.)

Proof of Perjury

After an 18 month FINRA investigation, as well as a 24-month SEC investigation, none of Simons nefarious allegations were proven to be true.

Simons himself tried to walk back from his false claims in his December 16, 2015 deposition:

DITTO ATTORNEY:	Did the Goldberg Kohn report conclude that Joe Fox had misappropriated funds from Ditto?
SIMONS:	The Goldberg Kohn report did not conclude that, nor did I ever allege that.
	* * *
DITTO ATTTORNEY:	And you got your answer from the SEC where they never made any findings that Joe Fox had engaged in fraud or misappropriation of funds, didn't you?
SIMONS:	Every question you asked me --[interrupted by attorney]-- relates to fraud and misappropriation of funds. I never made allegations of fraud and misappropriation of funds, and I did not make reports to the SEC about fraud and misappropriation of funds.
	* * *
DITTO ATTTORNEY:	Did you believe as of the time of this e-mail that there was a fraud that was in the process of being perpetrated as of that date?
SIMONS:	You know, I don't think I've ever actually used the term fraud in this or any other pleading. Others have.

Perjured Statement 2 from Simons December 9, 2013 Form [redacted]

Under the section titled "State in detail all facts pertinent to the alleged violation. Explain why the [redacted] believes the acts described constitute a violation of the federal securities laws.", Simons made the following perjured statements:

New information is attached:

1) *email from purchaser in Boulder Colorado, supporting claim of unregistered facilitator arranging personal sales of private restricted shares by Joe Fox, and of Joe Fox is representation the proceeds would be realized by company, and the transactions were facilitated through seminar arranged by boulder facilitator.*

Proof of Perjury

The Form [redacted] did not include an email from a purchaser that supported ANY claim of an "*unregistered facilitator arranging personal sales of private restricted shares by Joe Fox, and of Joe Fox is representation the proceeds would be realized by company...*"

(See attached Form [redacted].)

Joe Fox never told any buyer (or potential buyer) of his shares that proceeds would be "*realized by the Company.*" In fact, there are emails where Joe Fox explained to a potential purchaser that the reason he was selling his shares at a $0.15-$0.25 discount from what the Company had recently sold its shares, is because the Company IS NOT getting money from his sale and therefor the Company would not be using it to grow their investment.

Perjured Statement 3 from Simons December 9, 2013 Form [redacted]:

2) *records indicating that an alleged facilitator, who was paid substantial finder fees in contravention of state law in on disclosing federal form D filings was also a convicted felon who is been suspended by and is D and denied registration by the state of Colorado*

Proof of Perjury

After an 18 month FINRA investigation, as well as a 24-month SEC investigation, neither found (or claimed for that matter) that Joe Fox violated any state laws or that he failed to disclose ANY "finder's fees" in a Form D filing.

Joe Fox only became aware of Marc Mandel's 1991 felony conviction (and subsequent 18-month stint in a halfway house) when he read it in one of Simons court filings. When a Ditto employee reached out to Marc Mandel in mid-2012, Mandel was a well-respected radio personality in both the Denver/Boulder area and North Miami. Mandel also ran a well-respected Investment Newsletter with over 500 paid subscribers.

Simons, in his continued effort to harm Joe Fox, dedicated 13 of the 19 pages of the exhibits (to his Form [redacted] to Mandel's background.

Perjured Statement 4 from Simons December 9, 2013 Form [redacted]:

3) *request from the PGA counsel to cease-and-desist misrepresentation of relationship between Ditto Trade and the PGA in support of allegations of false and misleading representation to prospective investors*

Proof of Perjury

See attached document.

Perjured Statement 5 from Simons December 9, 2013 Form [redacted]:

4) *Fraudulent shareholder communication with CEO Joe fox falsely claims five-fold increase in revenues, and falsely states that Ditto Trade has annually audited financial statements*

Proof of Perjury

There was in fact a five-fold increase in revenue. Simons does not provide any evidence to the contrary.

All Broker/Dealers MUST be audited annually. Ditto Trade was in fact audited every year since they became a brokerage firm in 2010. Simons does not provide any evidence to the contrary.

Perjured Statement 6 from Simons December 9, 2013 Form [redacted]:

Under the section titled "Describe how and from whom the [redacted] obtained the information that supports this claim".

"I was the CEO of Ditto Trade from January 2, 2013, until I was terminated September 10th the day after reporting concerns and evidence of fraud and securities law violations both internally to the board the morning of the ninth and subsequently to the SEC Chicago office later on the 9th.

Proof of Perjury

It is well documented that Simons knew he was getting fired BEOFRE he reported anything (or for that matter, even considered reporting anything). See "***Joe is firing you Tuesday***" email.

Perjured Statement 6 from Simons December 9, 2013 Form [redacted]:

Under the section titled "Provide any additional information you think may be relevant".

"When I first notified the SEC on September 9, I was sitting CEO, officer, and Board Member acting out of a sense of duty. I had no expectation of or interest in an award for doing so, nor did I have any expectation of the extreme retaliatory action that have been taken against me."

Proof of Perjury

It is well documented that Simons knew he was getting fired BEOFRE he reported anything (or for that matter, even considered reporting anything). See "***Joe is firing you Tuesday***" email.

The PGA scheme that Simons executed and included in his Form [redacted] is one of the greatest examples of Plaintiff-Simons Perjury.

Perjured Statement from Simons December 9, 2013 Form [redacted]:

Under the section titled "State in detail all facts pertinent to the alleged violation. Explain why the [redacted] believes the acts described constitute a violation of the federal securities laws.", Simons made the following perjured statements:

request from the PGA counsel to cease-and-desist misrepresentation of relationship between Ditto Trade and the PGA in support of allegations of false and misleading representation to prospective investors

Proof of Perjury

Simons lied to the PGA to get something in writing that no partnership existed between the PGA and the Ditto Companies and then he used that writing (the email from General Counsel Garrity of the PGA denying the existence of a relationship) as evidence of unlawful misconduct through fraudulent inducement by Joe Fox to the SEC. In other words, Simons manufactured evidence to manufacture a crime ... and accused Joe Fox of that manufactured crime.

Simons stated that a "**request**" was made by "**PGA counsel to cease-and-desist misrepresentation of [a] relationship between Ditto Trade[1] and the PGA....**" Simons is the one that contacted the PGA, not the other way around. Simons (not the Ditto Companies) received the PGA's request to "*cease-and-desist*" any [redacted] to a PGA-Ditto partnership or use of their logo. Simons falsely described an annual stockholder meeting (at which he was a co-presenter) as an "*Offering*" event to support his false "*allegations of false and misleading representation to prospective investors.*" Simons fabricated the entire scheme. Simons committed perjury in an effort to damage Joe Fox, and to get him criminally prosecuted.

Here are the details to the elaborate perjured scheme:

"Ditto Golf"

1. The PGA scheme that Simons executed is probably one of the greatest examples of the devious, malicious, and criminal mind of Simons.

2. On July 24, 2013, Ditto Holdings held its annual stockholder meeting in Chicago. Only existing stockholders were invited, i.e., this was not a presentation to promote new

[1] The PGA actually denounced any relationship with "Ditto *Golf*" not "Ditto Trade."

investments to potential investors.

3. Simons and Joseph were *co-presenters* at that meeting.

4. One subject discussed was a charity concept known as "Ditto Golf."

5. The Ditto Golf concept was conceived after Joseph helped raise $35,000 for professional golfer Ernie Els' charity "Els for Autism"[2] in late 2011. Joseph and Els for Autism Executive Director Susan Hollo discussed the concept of having viewers of televised golf tournaments select and follow a particular golfer and his corresponding charity, and make a donation. If the golfer won a certain tournament, the viewer/follower could win a prize.

6. Ms. Hollo believed that the idea was big enough that it should be presented to the PGA to benefit all of the PGA related charities. Ms. Hollo proceeded to connect Joseph to the PGA and discussed introducing Ditto to the top 50 golfers in the world and their related charities.

7. Joseph had several conversations with the PGA about a potential partnership and there was mutual interest in continuing discussions. One of the key barriers to entry into any agreement with the PGA, however, was the significant cost of implementing the Ditto Golf concept. After careful consideration (with the best interests of the Ditto Companies in mind), Joseph made the decision to focus on completing the Ditto Trade technology (then in development) before corporate resources would be targeted for the Ditto Golf concept. However, the fact remained that the Ditto Golf concept was alive albeit delayed; a strong relationship was developing with Els for Autism and the PGA with mutual interests in mind; and,

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[2] Ernie Els created the *Els for Autism* charity in 2009 [redacted]
http://www.elsforautism.com/site/PageServer?pagename=About_Us_ernies_story

once Ditto Golf could be funded properly, partnership discussions would continue with an eye toward a Ditto Golf launch in late 2013 or 2014.

8. These discussions with the PGA and the potential relationship with the PGA were discussed with the existing shareholders of Ditto Holdings at the 2013 annual stockholder meeting during a slide show—shown as "forward looking statements" with "safe harbor" caveats, etc.[3]

9. Simons knew well the scope of the *potential* relationship with the PGA and Joseph's directive to delay the Ditto Golf concept until the technology at Ditto Trade was completed. Simons also knew well the care taken in describing the *potential* relationship with the PGA; the *potential* Ditto Golf concept; and the measures taken by Joseph not to mislead any existing shareholders of Ditto Holdings. In fact, the materials that Joseph emailed to all 200+ existing shareholders make no mention whatsoever of any relationship with the PGA. None.[4]

Simons Cons the PGA

10. On September 24, 2013, some two weeks after Simons was terminated as CEO of Ditto Trade and just days after his lawyer Paul Huey-Burns withdrew from representing Simons, Mann, and Stillman, Simons called the General Counsel of the PGA, Ms. Christine Garrity. On information and belief, Simons misrepresented himself as a *potential* investor in Ditto Golf or Ditto Trade who had received offering materials from the Company; that the offering materials referenced a partnership with the PGA; and he wanted written confirmation of the partnership relationship by and between Ditto Golf or Ditto Trade and the

---

[3] The only people that had the confidential Ditto Golf slide were the executives, including Simons and Mann.

[4] The Ditto Golf slide was not included in any documents provided at any time to existing or prospective shareholders.

PGA before he invested in Ditto Golf or Ditto Trade.

11. Following their conversation, General Counsel Garrity wrote to Simons:

> **The PGA of America does not have a business relationship with Ditto Golf. If you could send me a .pdf of the document that you referenced, I'd greatly appreciate it so that I can follow-up with them to remove our name and registered trademark from their materials.**

12. In the next three days, Simons sent several confidential slides to General Counsel Garrity that were on the Ditto Trade lap top that Simons had stolen; however, he did not send ALL of the slides, only some of the slides, with the clear intent to mislead the PGA. For example, there were 30 slides in total. Simons sent 26 slides to the PGA. Simons failed to disclose the following slides:

Slide 1: **OPENING AGENDA**

Call to Order	Joseph J. Fox, Chairman and CEO
Introductions, Quorum Report, Affidavit of Mailing	Joseph J. Fox
Board Nominations	Joseph J. Fox
Open the Voting for Election of Directors	Joseph J. Fox
Management Presentation	Joseph J. Fox, Paul M. Simons, Exec. V.P. and CEO of Ditto Trade, Inc.

Ditto Holdings, Inc. Proprietary and Confidential

Slide 3: **Instructions for Voting Online**

Shareholders who are attending remotely must cast their ballot for Directors by sending an e-mail message to Secretary @DittoHoldings.com and listing the names of up to three Director nominees.

Ballots cast via e-mail must be received no later the 6:30 PM Central Time.

Please make sure to type your full name in the body of the message indicating that you are the sender.

Slide 14: **Hedgeye**[5]

Slide 30:

Closing Agenda	
Close the Voting	Joseph J. Fox
Report of the Inspector of Election	Joseph J. Fox and Stuart Cohn, Secretary
Adjournment	Joseph J. Fox
Question and Answer Period	Joseph J. Fox

13. Simons likely failed to disclose the Opening Agenda slide because it identifies him as the Executive Vice-President of Ditto Holdings and the CEO of Ditto Trade, Inc. Simons was likely masquerading to the PGA as a *prospective* investor in the Ditto Companies looking to verify the alleged partnership between Ditto Golf or Ditto Trade and the PGA.... He did not want to disclose his true relationship with the Ditto Companies, i.e., the former CEO/EVP....

14. Simons also failed to disclose the Opening Agenda because it gives context to the event: an annual stockholder meeting with quorum requirements, board nominations, voting matters, etc. ... not a pitch meeting to prospective investors as Simons falsely claimed.

15. Simons also failed to disclose the Instructions for Voting Online slide because it, too, gives any reasonable reader the clear understanding that this is an annual

---

[5] This slide was used to demonstrate Ditto Trade's technical capabilities with a company called Hedgeye.

stockholder meeting (with Director nominees, voting, etc.), not a prospective investor meeting peppered with Offering Materials as Simons falsely claimed.

16. For the same reasons, Simons did not include the Closing Agenda slide which, again, refers to voting measures and elections.

17. It should be noted that not one non-shareholder was invited to the annual stockholder meeting. Simons' effort to misrepresent the annual stockholder meeting as a pitch meeting to potential investors was a complete con job on the PGA.

18. On the morning of September 27, 2013, Simons wrote to General Counsel "Christine" Garrity: "**Christine I would appreciate remaining confidential in bringing this to your attention.**"

19. On the same morning, Simons received the following email from the PGA's Director and Legal Counsel Andrew Blasband:

> **Mr. Simons -**
>
> **Christine Garrity forwarded the information you provided to me. I noted a public relations link on the Ditto trade website (see below) that indicates you are the CEO of Ditto Trade.**
>
> **Are you still acting in that capacity? If so, I would like to request Ditto Trade cease and desist from all uses of The PGA of America's registered trademark. The PGA of America has no involvement with this offering and, as such, we demand that every person that received the attached materials receive updated materials eliminating any use of The PGA of America name, logo or inference that the PGA of America has any involvement whatsoever with this offering.**
>
> **[link to public relations section of Ditto Trade website]**
>
> **Please let me know that you received this correspondence and how Ditto Trade plans to resolve the issue.**
>
> **Thank you-**
>
> **Drew**

Andrew Blasband
Director and Legal Counsel
The PGA of America

20. In response, the same day, Simons wrote to "Drew":

> **Andrew-no I do not have any affiliation with the company.**
>
> **I also brought this to your attention in good faith and requested that it be treated as confidential, both the document and the source, to which Ms. Gerrity [sic] agreed.**
>
> **I respectfully request that in whatever communication you desire to make with the company that you please not forward my email or the document or reference the source.**
>
> **I would hope it would be adequate to protect your interests to state that you have been made aware of this and request whatever action is appropriate.**
>
> **The information was presented – I do not know if and/or to whom it was sent. I merely informed Ms. Gerrety [sic] in order to confirm whether or not such a partnership as represented actually exists.**
>
> **I thank you for honoring my request**

21. Once Mr. Blasband exposed Simons as the "**CEO of Ditto Trade**" and sent *him* a cease and desist letter, Simons could do nothing but backtrack out of his lies. After all, it makes no sense for a CEO (or even former CEO) to impersonate a prospective shareholder ... or, after being exposed, to claim he has "no ... affiliation" with the Ditto Companies. It makes no sense for a CEO (or even former CEO) to ask for a written confirmation that there is or is not a partnership with his own company. The very fact that Mr. Blasband outted Simons means that Simons hid his true identity. It seems plain that Simons was so absolutely shady that the PGA never sent a cease and desist letter to the Ditto Companies.

22. At the end of the day, Simons did not need to call the PGA to verify

that there was no partnership between Ditto Trade (Ditto Golf) and the PGA; he knew perfectly well that there was no such partnership in place. And the idea that Simons needed something in writing to confirm or deny the partnership was a ruse on the PGA (and the SEC, FINRA, etc.).[6]

23. As is clear from his own sworn testimony, Simons already knew, before he called the PGA, that there was no partnership; no partnership was ever described by the Ditto Companies; and no partnership was ever represented by Joseph:

ATTORNEY:	Have you ever seen anything generated by Ditto that said -- used the word partnership at any time to describe the relationship between Ditto and any PGA entity?
SIMONS:	In writing?
ATTORNEY:	Yeah, in writing.
SIMONS:	No.
ATTORNEY:	Now, did Joe Fox ever tell you that Ditto had a, quote, partnership with a PGA entity?
SIMONS:	I think Joe -- did he ever specifically tell me there is a partnership? No. I think Joe Fox represented that there was something with the PGA. It presented as an idea.

24. Even his cohort Mann knew that there was no partnership with the PGA:

ATTORNEY:	Did Joe Fox ever tell you that Ditto had a partnership with the PGA?

---

[6] On September 24, 2013 at 2 pm, Simons had his first phone conversation with Jed Forkner and Anne McKinley, lawyers at the SEC. It is all but certain that either Mr. Forkner or Ms. McKinley asked Simons if he knew if Joseph had ever lied to investors to get them to invest. Two hours and two minutes later, after a phone call with General Counsel Garrity, Simons received the email from the PGA denying any relationship by or between the PGA and "Ditto Golf."

MANN: Had? No. Trying to, yes.

EXHIBIT 5

DITTO TRADE

Stu Cohn <scohn@sovestech.com>

Ditto Holdings, Inc. - Settlement

1 message

Stu Cohn <scohn@dittoholdings.com> Mon, Dec 22, 2014 at 2:11 PM
To: "McKinley, Anne C." <McKinleyA@sec.gov>, "Forkner, Jedediah B." <ForknerJ@sec.gov>
Bcc: Stu Cohn <scohn@dittoholdings.com>

Dear Ms. McKinley and Mr. Forkner:

Attached is a folder containing the settlement Offer and Order with our proposed edits, as well as our cover letter explaining those.

Best wishes in the holiday season.

Sincerely,

Stu Cohn

Stuart A. Cohn

EVP/General Counsel

Ditto Holdings, Inc.

200 W. Monroe St.

Suite 1430

Chicago, IL 60606

(312) 263-8119 phone

(312) 263-8333 fax

scohn@dittoholdings.com

5 attachments

(Clean) SEC Offer of Settlement draft edited by Ditto Holdings (12.22.14).docx
55K

(Clean) SEC Order Instituting Proceedings draft edited by Ditto Holdings (12.22.14).docx
40K

(Redline) SEC Offer of Settlement draft edited by Ditto Holdings (12.22.14).pdf
271K

(Redline) SEC Order Instituting Proceedings draft edited by Ditto Holdings (12.22.14).pdf
257K

Ditto Holdings Letter to SEC 122214.pdf
535K

EXHIBIT 6

DITTO TRADE

Stu Cohn <scohn@sovestech.com>

Ditto Holdings (C-08037)

1 message

Forkner, Jedediah B. <ForknerJ@sec.gov> Tue, Jan 6, 2015 at 12:14 PM
To: "Stu Cohn (scohn@dittoholdings.com)" <scohn@dittoholdings.com>
Cc: "McKinley, Anne C." <McKinleyA@sec.gov>

Stu:

Per our discussion, I have attached the document that we used in counting the number of non-accredited investors.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

EX40.pdf
869K

EXHIBIT 7A

Ditto Holdings, Inc. Non-Accredited Investors

Investor Name	Date Purchased	Amount Invested	Type of Capital
[redacted] Selinger	03/12/10	$ 10,000	Common Stock
[redacted] Selinger	10/01/10	$ 2,500	Common Stock
[redacted] Selinger	08/13/13	$ 6,750	Common Stock
[redacted] Berk	10/13/10	$ 7,000	Common Stock
[redacted] l Simon	11/24/10	$ 25,000	Common Stock
[redacted] Slagle	03/04/11	$ 25,000	Common Stock
[redacted] Wettersten	12/10/12	$ 27,500	Common Stock
[redacted] Gussman Trust	12/27/12	$ 10,000	Preferred Series B
[redacted] Goik	12/31/12	$ 100,000	Preferred Series B
[redacted] l Branvold	01/13/13	$ 50,000	Preferred Series B
[redacted] Groutage	01/14/13	$ 50,000	Preferred Series B
[redacted] Stehle IRA	01/14/13	$ 50,000	Preferred Series B
[redacted] Stehle IRA	02/25/13	$ 35,714	Common Stock
[redacted] s Olness	01/14/13	$ 50,000	Preferred Series B
[redacted] Chen	01/14/13	$ 50,000	Preferred Series B
[redacted] Garrett	01/16/13	$ 100,000	Preferred Series B
[redacted] Garrett IRA	07/11/13	$ 60,000	Common Stock
[redacted] Kay	01/25/13	$ 50,000	Preferred Series B
[redacted] Kay	08/09/13	$ 25,000	Common Stock
[redacted] Getsie	02/25/13	$ 25,000	Common Stock
[redacted] y Chan IRA	02/25/13	$ 25,000	Common Stock
[redacted] Wegman	02/26/13	$ 25,000	Common Stock
[redacted] Molen	02/27/13	$ 25,000	Common Stock
[redacted] Horn IRA	03/05/13	$ 57,500	Common Stock
[redacted] Halpern IRA	03/05/13	$ 50,000	Common Stock
[redacted] Halpern IRA	08/20/13	$ 27,500	Common Stock
[redacted] Averbeck IRA	03/06/13	$ 26,393	Common Stock

[redacted] Rexach	03/14/13	$	25,000	Common Stock
[redacted] Bisdorf	08/08/13	$	5,400	Common Stock
[redacted] Bisdorf IRA	03/14/13	$	22,566	Common Stock
[redacted] Zalk and [redacted] Elder	03/14/13	$	50,000	Common Stock
[redacted] Timm IRA	03/21/13	$	25,000	Common Stock
[redacted] l Wong IRA	03/25/13	$	25,000	Common Stock
[redacted] Beck IRA	03/28/13	$	50,000	Common Stock
[redacted] Benedict IRA	04/02/13	$	25,000	Common Stock
[redacted] Lloyd IRA	07/11/13	$	8,400	Common Stock
[redacted] Lloyd IRA	07/10/13	$	13,560	Common Stock
[redacted] s Andrews IRA	07/24/13	$	49,500	Common Stock
[redacted] Morris IRA	08/28/13	$	30,000	Common Stock
[redacted] l and [redacted] Hunt	08/29/13	$	25,000	Common Stock
[redacted] Carmel	09/06/13	$	5,000	Common Stock
[redacted] Davis	09/09/13	$	6,500	Common Stock
[redacted] Davis	09/09/13	$	6,500	Common Stock
[redacted] and [redacted] Bochantin	09/10/13	$	25,001	Common Stock
[redacted] Richmond	09/11/13	$	30,000	Common Stock

In total, there were 45 investments made by 38 separate non-accredited investors in various offerings.
(4 of the 38 are husband and wife)

EXHIBIT 7

Preferred A

First Name	Last Name	Shares	Amount	Date	ACR	Notes
[redacted]	Bates trust	41,667	$ 25,000	6/8/2012	Y	
	Bermont	6,250	$ 5,000	6/14/2012	Y	
	Cohn	20,000	$ 10,000	6/19/2012	Y	
	Colando	50,000	$ 30,000	5/21/2012	Y	
	Corvino	41,667	$ 25,000	6/11/2012	Y	
	Cox	50,000	$ 30,000	5/30/2012	Y	
	Crane	83,333	$ 50,000	2/10/2012	Y	
	Crane	(41,667)	$ (25,000)		Y	
	Feiner	50,000	$ 25,000	5/10/2012	Y	
	Goldman	10,000	$ 10,000		Y	
	Grosser	16,667	$ 10,000	5/18/2012	Y	
	Halfmann	66,667	$ 40,000	3/18/2012	Y	
	Hecht	83,333	$ 50,000	3/7/2012	Y	
	Hecht	41,667	$ 25,000	4/27/2012	Y	
	Kavanagh	83,333	$ 50,000	6/11/2012	Y	
	Kincaid	500,000	$ 500,000		Y	
	Kinkade	500,000	$ 300,000		Y	
	Kuyper	25,000	$ 25,000		Y	
	Larson	16,667	$ 10,000	4/20/2012	Y	
	Larson IRA	16,667	$ 10,000	4/27/2012	Y	
	Logan	6,250	$ 5,000	5/11/2012	Y	
	Malltzky	16,667	$ 10,000	5/8/2012	Y	
	Mann	50,000	$ 46,000		Y	
	Matthew	83,333	$ 50,000	4/30/2012	Y	
	Matthews Trust	16,667	$ 10,000	5/22/2012	Y	
	Officer	25,000	$ 25,000		Y	
	Officer	41,667	$ 25,000	12/1/2012	Y	
	Ranganathan	12,500	$ 12,500		Y	
	Rauch	16,667	$ 10,000	5/10/2012	Y	
	Rentner Trust	41,667	$ 25,000	5/21/2012	Y	
	Romano Trust	83,333	$ 50,000	6/11/2012	Y	
	Rothenberg	16,667	$ 10,000	6/5/2012	Y	
	Scurto	41,667	$ 25,000	5/21/2012	Y	

Preferred A

First Name	Last Name	Shares	Amount	Date	ACR	Notes
[redacted]	Scurto Trust	50,000	$ 30,000	6/12/2012	Y	
[redacted]	Sullivan	83,333	$ 50,000	5/27/2012	Y	
[redacted]	Welsman	25,000	$ 15,000	6/6/2012	Y	
[redacted]	Wert IRA	100,000	$ 100,000		Y	

Preferred B

First Name	Last Name	Shares	Invested	Date	ACR
[redacted]	Allen	57,143	$ 50,000	1/14/2013	Y
	Ben-Ami	10,000	$ 10,000	9/20/2012	Y
	Bessette	71,429	$ 50,000	1/9/2013	Y
	Bilek IRA	71,429	$ 50,000	1/14/2013	Y
	Branvold	58,823	$ 50,000	1/13/2013	
	Bregin	12,500	$ 10,000	6/13/2012	
	Bregin	50,000	$ 40,000	7/25/2012	
	Brozosky IRA	71,429	$ 50,000	1/14/2013	Y
	Chen	57,471	$ 50,000	1/14/2013	
	Dahl	12,500	$ 10,000	9/19/2012	Y
	Dallet Trust	57,142	$ 50,000	1/8/2013	Y
	Eckstine	114,286	$ 100,000	1/27/2013	Y
	Edmonds IRA	35,714	$ 25,000	1/14/2013	Y
	Feiner	250,000	$ 100,000	7/2/2012	Y
	Feiner	200,000	$ -	8/22/2012	Y
	Feiner	500,000	$ 165,000	10/19/2012	Y
	Fox	14,286	$ 10,000		Y
	Garrett	114,285	$ 100,000	1/16/2013	
	Golk	114,286	$ 100,000	12/31/2012	
	Goldman	6,207	$ 6,207	7/6/2012	Y
	Gregg	72,971	$ 51,080	12/19/2012	Y
	Groutage	57,142	$ 50,000	1/14/2013	
	Gussman Trust	14,286	$ 10,000		
	Jones	142,858	$ 100,000	1/8/2013	Y
	Kavanagh	31,035	$ 31,035	7/6/2012	Y
	Kay	57,143	$ 50,000	12/14/2012	
	Kompolt IRA	71,429	$ 50,000	1/14/2013	Y
	Lane, Jr.	57,143	$ 50,000	1/14/2013	Y
	Lang	57,142	$ 50,000	1/16/2013	Y
	Messana	71,429	$ 50,000	1/15/2013	Y
	Meuret	228,000	$ 200,000	1/14/2013	Y
	Monks	63,000	$ 50,400	1/15/2013	Y
	Olness	57,142	$ 50,000	1/14/2013	

Preferred B

First Name	Last Name	Shares	Invested	Date	ACR
[redacted]	Owens	200,000	$ 120,000	10/24/2012	Y
[redacted]	Sponheimer	114,285	$ 100,000	1/14/2013	Y
[redacted]	Stehle IRA	71,429	$ 50,000	1/14/2013	
[redacted]	Therlault	25,000	$ 15,000	6/19/2012	Y
[redacted]	Wert	600,000	$ 100,000		Y
[redacted]	Wiebe	171,428	$ 150,000	1/24/2013	Y
[redacted]	Wood IRA	71,429	$ 50,000	1/10/2013	Y
[redacted]	Young	58,140	$ 50,000	12/20/2012	Y
[redacted]M Investments		250,000	$ 200,000	6/11/2012	Y

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
T[redacted]	Andrews IRA	33,000	$ 49,500	7/24/13	
S[redacted]	Averbeck IRA	21,114	$ 26,393	3/6/13	
B[redacted]	Bacci	40,000	$ 20,000	4/20/10	Y
V[redacted]n	Baldassano	30,000	$ 15,000	3/9/10	Y
D[redacted]	Beck IRA	40,000	$ 50,000	3/28/13	
D[redacted]	Berk	9,333	$ 7,000	10/9/10	
L[redacted]	Berk	6,750	$ 5,000	10/6/10	Y
J[redacted]	Bles	32,000	$ 10,000	1/14/10	Y
L[redacted]	Bisdorf	4,000	$ 5,400	8/8/13	
L[redacted]	Bisdorf IRA	18,045	$ 22,556	3/14/13	
N[redacted]	Blumofe	50,000	$ 25,000	12/9/10	Y
O[redacted]	Bochantin	16,667	$ 25,001	9/10/13	
A[redacted]	Bosward	25,000	$ 37,500	9/3/13	Y
A[redacted]	Bosward	100,000	$ 125,000	3/1/13	Y
A[redacted]	Braverman	80,000	$ 25,000	12/30/09	Y
H[redacted]	Brookins	32,000	$ 10,000	1/29/10	Y
J[redacted]	Bruck	12,500	$ 12,500	5/9/09	Y
R[redacted]	Buntz	500,000	$ 25,000	10/16/09	Y
M[redacted]	Cahn	20,000	$ 30,000	8/29/13	Y
H[redacted]	Carmel	3,333	$ 5,000	9/6/13	
J[redacted]	Chan IRA	20,000	$ 25,000	2/25/13	
[redacted]	[redacted] LLC	80,000	$ 100,000	1/14/13	Y
C[redacted]	Cohn	150,000	$ 50,000	1/20/11	Y
S[redacted]	Cook	40,000	$ 50,000	2/25/13	Y
M[redacted]	Craddock	10,000	$ 12,500	2/22/13	Y
M[redacted]	Craddock IRA	10,000	$ 12,500	3/28/13	
K[redacted]	Daneshgar	40,000	$ 50,000	5/3/13	Y
M[redacted]	Dauber	33,333	$ 25,000	9/9/10	Y
G[redacted]	Davis IRA	4,333	$ 6,500	9/17/13	
K[redacted]	Davis IRA	4,333	$ 6,500	9/17/13	
M[redacted]	Eckstein	37,038	$ 50,001	9/4/13	Y
G[redacted]	Family Trust	16,667	$ 25,000	6/21/13	Y

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
[redacted]	Feiner	35,000	$ 47,250	8/26/13	Y
	Finn	(30,000)	$ (15,645)	5/14/13	Y
	Finn	652,000	$ 326,000	10/1/11	Y
	Foreman	30,000	$ 15,000	6/3/10	Y
	Foulke Trust	130,000	$ 60,000	3/1/12	Y
	Fox	14,286	$ 10,000	2/21/13	Y
	Frydman	50,000	$ 25,000	5/4/10	Y
	Garrett IRA	40,000	$ 60,000	7/11/13	
	Gavarin	10,000	$ 12,500	5/10/13	Y
	Getsie	20,000	$ 25,000	2/25/13	
	Goldman	80,000	$ 25,000	1/20/10	Y
	Goldstein	5,000	$ 5,000	5/1/11	
	Goldstein	10,000	$ 10,000	2/19/13	
	Green	16,667	$ 25,000	9/25/13	Y
	Green	16,667	$ 25,000	9/4/13	Y
	Greenberg	200,000	$ 40,000	4/15/09	Y
	Groom	10,000	$ 13,500	8/8/13	Y
	Groom	35,000	$ 52,500	7/19/13	Y
	Grove	40,000	$ 50,000	2/11/13	Y
	Gustafson IRA	20,000	$ 25,000	3/13/13	Y
	Halpern IRA	20,000	$ 27,000	8/20/13	
	Halpern IRA	40,000	$ 50,000	3/5/13	
	Hill	32,000	$ 48,000	9/4/13	Y
	Horn IRA	46,000	$ 57,500	3/5/13	
	Hunt	16,667	$ 25,000	8/29/13	
	Isenstein;Gerch	20,000	$ 10,000	5/9/10	
	Israel	18,800	$ 23,500	2/22/13	Y
	Iwanicki IRA	40,000	$ 50,000	2/28/13	Y
	Kanter	6,667	$ 5,000	9/24/10	Y
	Karlin	10,000	$ 7,500	10/1/10	Y
	Karlin	50,000	$ 25,000	5/10/10	Y
	Karlin	10,000	$ 7,500	10/1/10	

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
F[redacted]	Karlin	25,000	$ 12,500	5/10/10	
S[redacted]	Karlin	10,000	$ 7,500	10/1/10	
S[redacted]	Karlin	25,000	$ 12,500	5/10/10	Y
S[redacted]	Kattula IRA	20,000	$ 25,000	2/21/13	Y
E[redacted]	Kay	18,519	$ 25,000	8/9/13	
R[redacted]	Kincaid	69,452	$ 69,452	8/2/13	Y
J[redacted]	Klein	40,000	$ 20,000	4/21/09	Y
G[redacted]	Kosal	35,200	$ 44,000	2/20/13	Y
A[redacted]	Kroll	7,000	$ 5,250	9/24/10	Y
J[redacted]	Laino	46,667	$ 35,000	11/17/10	Y
G[redacted]	Lane IRA	40,000	$ 50,000	3/6/13	Y
[redacted]	[redacted] Holdings LL	40,000	$ 50,000	2/15/13	Y
C[redacted]	Larsen	133,333	$ 90,000	2/22/11	Y
C[redacted]	Larsen	80,000	$ 40,000	5/24/10	Y
[redacted]	[redacted] LLC	100,000	$ 125,000	6/4/13	Y
E[redacted]	Leon IRA	16,667	$ 25,000	8/28/13	Y
S[redacted]	Lively	40,000	$ 50,000	2/11/13	Y
D[redacted]	Lloyd IRA	5,600	$ 8,400	7/11/13	
R[redacted]	Lloyd IRA	9,040	$ 13,560	7/10/13	
A[redacted]	Logan	6,250	$ 6,250	5/16/13	Y
A[redacted]	Logan	36,444	$ 20,000	8/1/11	Y
A[redacted]	Logan	50,000	$ 25,000	5/21/10	Y
A[redacted]	Logan	50,000	$ 25,000	3/4/10	Y
M[redacted]	Mandel	716,358	$ 7,164	2/15/13	Y
D[redacted]	Meuret IRA	33,333	$ 50,000	8/7/13	Y
K[redacted]	Meyer	10,000	$ 13,500	8/13/13	Y
K[redacted]	Meyer	40,000	$ 50,000	2/2/13	Y
F[redacted]	Moftakhar	100,000	$ 125,000	4/30/13	Y
M[redacted]	Molen	20,000	$ 25,000	2/27/13	
D[redacted]	Monks	37,000	$ 49,950	7/30/13	Y
D[redacted]	Morris IRA	20,000	$ 30,000	8/28/13	
L[redacted]	Najjar	10,000	$ 13,500	8/5/13	Y

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
H[redacted]	Najjar IRA	15,159	$ 11,369	3/16/11	
L[redacted]	Najjar IRA	26,835	$ 20,126	3/15/11	Y
[redacted]	Nevel	250,000	$ 250,000	11/9/10	Y
[redacted]	Newman	20,000	$ 10,000	4/26/10	Y
[redacted]	Novik IRA	20,000	$ 30,000	7/11/13	Y
[redacted]	Olson	27,000	$ 25,000	5/10/11	Y
[redacted]	Olson	10,000	$ 7,500	7/30/10	Y
[redacted]	Olson	10,000	$ 7,500	7/29/10	Y
[redacted]	Olson	13,333	$ 10,000	7/28/10	Y
[redacted]	Olson	100,000	$ 50,000	2/5/10	Y
[redacted]	Olson IRA	25,000	$ 27,500	8/20/13	Y
[redacted]	Panaiotou	100,000	$ 50,000	4/26/10	Y
[redacted]	Parisi	10,000	$ 13,500	8/29/13	Y
[redacted]	Parisi	20,000	$ 27,000	8/15/13	Y
[redacted]	Parisi	20,000	$ 30,000	8/9/13	Y
[redacted]	Patterson; Prahl	20,000	$ 15,000	3/4/11	Y
[redacted]	Philbin	20,000	$ 30,000	9/11/13	Y
[redacted]	Prange	16,667	$ 25,001	9/4/13	Y
[redacted]	Rahman	32,000	$ 10,000	1/27/10	Y
[redacted]	Resnik	64,000	$ 20,000	2/3/10	Y
[redacted]	Rexach	20,000	$ 25,000	3/14/13	
[redacted]	Reznik	500,000	$ 25,000	11/30/09	Y
[redacted]	Richmond	20,000	$ 30,000	9/11/13	
[redacted]	Rillo	100,000	$ 100,000	12/17/12	Y
[redacted]	Santise	16,667	$ 25,000	9/26/13	Y
[redacted]	Selinger	5,000	$ 6,750	8/13/13	
[redacted]	Selinger	3,333	$ 2,500	10/1/10	
[redacted]	Selinger	20,000	$ 10,000	3/12/10	
[redacted]	Shah	20,000	$ 25,000	2/22/13	Y
[redacted]	Shanberg	53,333	$ 40,000	9/30/10	
[redacted]	Simon IRA	33,333	$ 25,000	11/24/10	
[redacted]	Simons	80,000	$ 100,000	1/14/13	Y

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
[redacted]	Simons	120,000	$ 150,000	1/14/13	Y
	Simons	80,000	$ 100,000	1/11/13	Y
	Simons	80,000	$ 100,000	1/16/13	Y
	Skoglund	80,000	$ 100,000	1/23/13	Y
	Slagle	33,333	$ 25,000	3/4/11	
	Socarras	18,555	$ 25,049	9/25/13	Y
	Socarras IRA	17,027	$ 25,541	8/7/13	Y
	Spano	40,000	$ 20,000	3/16/10	
	Sparks	48,000	$ 60,000	1/31/13	Y
	Stasek	13,334	$ 10,000	10/22/10	Y
	Staton	13,333	$ 10,000	10/27/10	Y
	Staton	200,000	$ 10,000	10/16/09	Y
	Steele	16,667	$ 25,000	9/12/13	Y
	Stehle IRA	28,571	$ 35,714	2/25/13	
	Stillman	32,000	$ 10,000	12/16/09	Y
	Stillman	32,000	$ 10,000	12/16/09	Y
	Stone	20,000	$ 15,000	9/2/10	Y
	Tambling	80,000	$ 25,000	2/12/10	Y
	Tambling	1,000,000	$ 50,000	9/22/09	Y
	Teele	33,333	$ 25,000	12/18/10	Y
	Terry	32,000	$ 10,000	2/2/10	Y
	Terry	13,333	$ 10,000	10/12/10	Y
	Timm IRA	20,000	$ 25,000	3/21/13	
	Wegman	20,000	$ 25,000	2/26/13	
	Welsman	32,000	$ 10,000	1/28/10	Y
	Weiss	80,000	$ 25,000	2/4/10	Y
	Weiss	12,500	$ 12,500	5/9/09	Y
	Welikoff	30,000	$ 37,500	3/5/13	Y
	Wengrow	33,333	$ 25,000	9/16/10	Y
	Wettersten	60,000	$ 27,500	12/10/12	
	Wettersten IRA	65,000	$ 65,000	1/30/13	Y
	Weyman	20,000	$ 25,000	3/15/13	Y

Common Shares

Shareholder First Name	Shareholder Last Name	Shares Owned	Amount Invested	Date Purchased	ACR
R[redacted]	Weyman IRA	40,000	$ 50,000	3/14/13	Y
E[redacted]	Winston	40,000	$ 10,000	3/30/10	Y
E[redacted]	Winston	40,000	$ 20,000	3/21/11	Y
E[redacted]	Winston	40,000	$ 10,000	3/31/10	Y
M[redacted]	Wong IRA	20,000	$ 25,000	3/25/13	
J[redacted]	Wood	15,000	$ 20,250	9/3/13	Y
S[redacted]	Zalk and Elder	40,000	$ 50,000	3/14/13	
B[redacted]	Zimmer	16,667	$ 10,000	11/22/11	Y
[redacted]					
[redacted]					
[redacted]					
R[redacted]	Weyman IRA	20,000	$ 25,000		Y
M[redacted]	Bennedict IRA	20,000	$ 25,000		

EXHIBIT 8

FB Financial Group, Inc.

An Illinois corporation

8% CONVERTIBLE DEBENTURE w/ WARRANTS

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of November 24, 2009, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, 8% Convertible Debentures with Warrants (the "Debentures"). The details of the Debentures are included as appendix A.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Subscription. Purchaser hereby irrevocably subscribes for the Debentures under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for the Debenture shall be 25,000.

2. Closing. Subject to Section 14, the closing of the purchase and sale of the Debentures (the "Closing") shall take place at the principal offices of the Company, at 5:00 p.m., Chicago time on November 27, 2009, or at such later date or time as the Company and Purchaser may agree.

3. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

4. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a Convertible Debenture representing the purchase amount duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

5. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Debentures for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Debentures purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Debentures by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

6. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[✓] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[ ] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Debentures, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Debentures, and (ii) with total assets in excess of $5,000,000; or

[ ] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Debentures in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

7. Debentures and Shares converted from Debentures and exercised from Warrants ("Shares") Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Debentures and the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Debentures and the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Debentures unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares within the Debentures;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

8. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Debentures;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Debentures;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Debentures, (B) can bear the economic risk of losing Purchaser's entire investment in the Debentures, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Debentures, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Debentures, and (E) has determined that the purchase of the Debentures is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Debentures even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Debentures) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Debentures;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Debentures, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Debentures; and

(m) Purchaser understands that: (i) an investment in the Debentures involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Debentures; and (iii) there currently are restrictions upon the transferability of the Debentures and no public market for the Shares within the Debentures is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Debentures when desired (even in the event of an emergency).

9. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock converted from the Debentures (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

10. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares converted from the Debentures shall bear a legend substantially to the following effect:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2009 between Chicago Commodities Exchange, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

11. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the

"Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

12. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

13. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

14. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Debentures, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

15. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof. Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By:_____

FB Financial Group, Inc.

8% DEBENTURE w/ WARRANTS
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

PURCHASER(S):

[Purchaser's sign here] [redacted] Goldstein

Amount of Debentures Subscribed for: $ 25,000

Date: November 27, 2009

The Debentures subscribed for hereby are being purchased as follows:

(Check one)

- [✓] Individually
- [ ] Joint Tenants with Right of Survivorship
- [ ] Tenants in Common
- [ ] As custodian, trustee or agent for _____[1]
- [ ] Partnership[2]
- [ ] Corporation[3]
- [ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC.

---

1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

8% DEBENTURE w/ WARRANTS
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:

Illinois

State in which Purchaser pays income taxes: Illinois

Purchaser(s) name [Please print]: [redacted] Goldstein

Purchaser's Residence Address:

[redacted]

Purchaser's Business Address:

Appendix A

Original Issue Date: November 24, 2009 $ 25,000

8% CONVERTIBLE DEBENTURE w/ WARRANTS

DUE NOVEMBER 24, 2010

THIS DEBENTURE is a duly authorized and validly issued Convertible Debentures of FB Financial Group, Inc., an Illinois corporation (the "Company").

FOR VALUE RECEIVED, the Company promises to pay to [redacted] Goldstein or its registered assigns (the "Holder"), the principal sum of $ 25,000 on November 24, 2010 (the "Maturity Date") and to pay to the Holder a quarterly interest payment equal to 8% (annualized) of the average principal outstanding for the period.

This Debenture is subject to the following additional provisions:

Section 1. DEBENTURE REPAYMENT.

(a) Debenture Repayment Date. The principal amount of this Debenture must be repaid one (1) year from the Original Issue Date.

(b) Early Redemption option by Holder. Within 5 working days prior to the 3rd month, 6th month and 9th month anniversary of the Issue Date, the Holder has the right to demand repayment of all (or any portion) of the outstanding principal balance.

(c) Prepayment. The Company may not prepay any or all of a portion of this Note without the consent of the Holder.

Section 2. CONVERSION.

(a) Conversion Period. Any time prior to the Debenture Repayment Date, the Holder may convert all or part of the principal amount of the Debenture.

(b) Conversion Rate. The conversion rate will we be two shares of common stock for every dollar of principal (or interest) the Holder wishes to convert ($0.50 conversion price).

Section 3. **WARRANTS**. Holder will receive one Warrant for every dollar purchased of the 8% Convertible Debentures. These Warrants will have an exercise price of $1.00 (one dollar) per share. The Warrants will expire 5 years from the above Issue Date.

Section 4. **MISCELLANEOUS**.

(a) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder, shall be in writing and delivered personally, by facsimile, pdf or other electronic delivery, or sent by a nationally recognized overnight courier service, addressed to the Company, at the address set forth below.

If to the Company, to:
FB Financial Group, Inc.
35 E. Wacker Drive, #550
Chicago, Illinois 60601
(312) 201-1600- Phone
(312) 201-1671 – Fax
jfox@FBFinancialGroup.com
Attention: Joseph J. Fox

(b) Absolute Obligation. This Debenture is the obligation of the Company, which is absolute and unconditional. This Debenture is a direct debt obligation of the Company. This Debenture ranks *pari passu* with all other Debentures now or hereafter issued.

(c) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Debenture shall be governed by and construed and enforced in accordance with the laws of the State of Illinois.

FB Financial Group, Inc.

An Illinois corporation

COMMON SHARES

(Please complete only the highlighted sections.)

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of 3/4/ 2011, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, shares (the "Shares") of Common Stock, $.001 par value ("Common Stock"), of the Company as set forth on the signature page hereof, on the terms set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Subscription. Purchaser hereby irrevocably subscribes for the Shares under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for each Share shall be **$1.00 (one dollar)**.

1. Closing. Subject to Section 14, the closing of the purchase and sale of the Shares (the "Closing") shall take place at the principal offices of the Company, 1801 Century Park East, Suite #1901, Los Angeles, CA 90067, at 5:00 p.m., Los Angeles time on _____, 2010, or at such later date or time as the Company and Purchaser may agree.

2. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

3. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a certificate or certificates representing the Shares duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

4. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Shares purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Shares by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

5. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[ ] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[X] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Shares, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Shares, and (ii) with total assets in excess of $5,000,000; or

[ ] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Shares in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

6. Shares Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

7. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Shares;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Shares even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Shares) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Shares;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Shares, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Shares; and

(m) Purchaser understands that: (i) an investment in the Shares involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Shares; and (iii) there currently are restrictions upon the transferability of the Shares and no public market for the Shares within the Shares is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Shares when desired (even in the event of an emergency).

8. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

9. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares shall bear a legend substantially to the following effect:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2010 between FB Financial Group, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

[redacted]

10. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the "Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

11. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

12. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

13. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Shares, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

14. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof. Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By: _____

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

(Please complete the next two pages in their entirety.)

PURCHASER(S):

Purchaser's sign here [redacted]

Number of Shares Subscribed for: _____

Consideration Paid: $11,369.00

(Minimum investment: ~~$25,000~~ - Subscriptions do not need to be in ~~$25,000~~ increments)

Date: 11,369.-

The Shares subscribed for hereby are being purchased as follows:

(Check one)

- [✓] Individually
- [ ] Joint Tenants with Right of Survivorship
- [ ] Tenants in Common
- [ ] As custodian, trustee or agent for _____[1]
- [ ] Partnership[2]
- [ ] Corporation[3]
- [ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC. AND MAIL THE COMPLETED AGREEMENT TO:

FB Financial Group, Inc.
1801 Century Park East, Suite #1901
Los Angeles, CA 90067

You can also wire funds to:
Bank of America
9461 Wilshire Blvd
Beverly Hills, CA
ABA #026-009-593
Account Name: FB Financial Group, Inc.
Account #0213371237

[redacted]

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1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:

ILLINOIS

State in which Purchaser pays income taxes: ILLINOIS

Purchaser(s) name [Please print]: [redacted] NAJJAR

[redacted]

Purchaser's Business Address:

Work Phone:

Work Fax:

[redacted] Security Number:

[redacted]

FB Financial Group, Inc.

An Illinois corporation

COMMON SHARES

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of April 30 2010, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, shares (the "Shares") of Common Stock, $.001 par value ("Common Stock"), of the Company as set forth on the signature page hereof, on the terms set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Subscription. Purchaser hereby irrevocably subscribes for the Shares under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for each Share shall be **$0.50 (fifty cents)**.

1. Closing. Subject to Section 14, the closing of the purchase and sale of the Shares (the "Closing") shall take place at the principal offices of the Company, 35 E. Wacker Drive, #550, Chicago, IL 60601, at 5:00 p.m., Chicago time on _____, 2010, or at such later date or time as the Company and Purchaser may agree.

2. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

3. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a certificate or certificates representing the Shares duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

4. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Shares purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Shares by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

5. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[✓] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[ ] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Shares, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Shares, and (ii) with total assets in excess of $5,000,000; or

[ ] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Shares in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

6. Shares Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

8. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Debentures;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Debentures;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Debentures, (B) can bear the economic risk of losing Purchaser's entire investment in the Debentures, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Debentures, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Debentures, and (E) has determined that the purchase of the Debentures is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Debentures even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Debentures) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Debentures;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Debentures, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Debentures; and

(m) Purchaser understands that: (i) an investment in the Debentures involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Debentures; and (iii) there currently are restrictions upon the transferability of the Debentures and no public market for the Shares within the Debentures is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Debentures when desired (even in the event of an emergency).

9. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock converted from the Debentures (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

10. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares converted from the Debentures shall bear a legend substantially to the following effect:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2009 between Chicago Commodities Exchange, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

11. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the

"Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

12. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

13. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

14. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Debentures, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

15. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof. Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By: _____ CEO

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

PURCHASER(S):

Purchaser's sign here [redacted] Benjamin Gerchl

Number of Shares Subscribed for: 20,000

Consideration Paid: $10,000

(Minimum investment: $25,000 - Subscriptions do not need to be in $25,000 increments)

Date: April 30, 2010

The Shares subscribed for hereby are being purchased as follows:

(Check one)

- [X] Individually
- [ ] Joint Tenants with Right of Survivorship
- [X] Tenants in Common
- [ ] As custodian, trustee or agent for _____[1]
- [ ] Partnership[2]
- [ ] Corporation[3]
- [ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC. AND RETURN WITH AN EXECUTED COPY OF THIS AGREEMENT TO:

FB Financial Group, Inc.
35 E. Wacker Drive, Suite #550
Chicago, Illinois 60601

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1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:

Illinois

State in which Purchaser pays income taxes: Illinois

Purchaser(s) name [Please print]: [redacted] ISENSTEIN

[redacted] Gerch

Purch[redacted]

Home[redacted]

Home[redacted]

E-mai[redacted]

Purchaser's Taxpayer FEIN or Social Security Number:

_____

FB Financial Group, Inc.

An Illinois corporation

COMMON SHARES

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of March 27 2010, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, shares (the "Shares") of Common Stock, $.001 par value ("Common Stock"), of the Company as set forth on the signature page hereof, on the terms set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Subscription. Purchaser hereby irrevocably subscribes for the Shares under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for each Share shall be **$0.50 (fifty cents).**

1. Closing. Subject to Section 14, the closing of the purchase and sale of the Shares (the "Closing") shall take place at the principal offices of the Company, 35 E. Wacker Drive, #550, Chicago, IL 60601, at 5:00 p.m., Chicago time on March 27, 2010, or at such later date or time as the Company and Purchaser may agree.

2. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

3. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a certificate or certificates representing the Shares duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

4. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Shares purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Shares by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

5. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[✓] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[ ] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Shares, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Shares, and (ii) with total assets in excess of $5,000,000; or

[✓] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Shares in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

6. Shares Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

7. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Shares;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Shares even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Shares) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Shares;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Shares, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Shares; and

(m) Purchaser understands that: (i) an investment in the Shares involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Shares; and (iii) there currently are restrictions upon the transferability of the Shares and no public market for the Shares within the Shares is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Shares when desired (even in the event of an emergency).

8. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

9. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares shall bear a legend substantially to the following effect:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2010 between FB Financial Group, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

10. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the "Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

11. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

12. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

13. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Shares, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

14. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof. Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By:_____

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

PURCHASER(S):

Purchaser's sign here [redacted] _____

Number of Shares Subscribed for: 40,000

Consideration Paid: $20,000.00

(Minimum investment: $25,000 - Subscriptions **do not** need to be in $25,000 increments)

Date: March 27, 2010

The Shares subscribed for hereby are being purchased as follows:

(Check one)

[ ] Individually
[✓] Joint Tenants with Right of Survivorship
[ ] Tenants in Common
[ ] As custodian, trustee or agent for _____[1]
[ ] Partnership[2]
[ ] Corporation[3]
[ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC. AND RETURN WITH AN EXECUTED COPY OF THIS AGREEMENT TO:

FB Financial Group, Inc.
35 E. Wacker Drive, Suite #550
Chicago, Illinois 60601

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1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:

Illinois

State in which Purchaser pays income taxes: Illinois

Purchaser(s) name [Please print]: [redacted] Spano

[redacted] Spano

[redacted]

Purchaser's Business Address:

Work Phone:

Work Fax:

[redacted] y Number:

EXHIBIT 9

FB Financial Group, Inc.

An Illinois corporation

COMMON SHARES

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of 5/10 2010, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, shares (the "Shares") of Common Stock, $.001 par value ("Common Stock"), of the Company as set forth on the signature page hereof, on the terms set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Subscription. Purchaser hereby irrevocably subscribes for the Shares under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for each Share shall be **$0.50 (fifty cents)**.

1. Closing. Subject to Section 14, the closing of the purchase and sale of the Shares (the "Closing") shall take place at the principal offices of the Company, 35 E. Wacker Drive, #550, Chicago, IL 60601, at 5:00 p.m., Chicago time on _____, 2010, or at such later date or time as the Company and Purchaser may agree.

2. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

3. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a certificate or certificates representing the Shares duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

4. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Shares purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Shares by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

5. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[✓] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[ ] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Shares, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Shares, and (ii) with total assets in excess of $5,000,000; or

[ ] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Shares in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

6. Shares Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

7. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Shares;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Shares even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Shares) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Shares;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Shares, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Shares; and

(m) Purchaser understands that: (i) an investment in the Shares involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Shares; and (iii) there currently are restrictions upon the transferability of the Shares and no public market for the Shares within the Shares is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Shares when desired (even in the event of an emergency).

8. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

9. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares shall bear a legend substantially to the following effect

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2010 between FB Financial Group, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

10. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the "Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

11. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

12. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

13. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Shares, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

14. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof. Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By: _____ CEO

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

PURCHASER(S):

Purchaser's sign here [redacted] Kerlin

Number of Shares Subscribed for: 25,000

Consideration Paid: $12,500.00

(Minimum investment: $25,000 - Subscriptions do not need to be in $25,000 increments)

Date: 5/13/10

The Shares subscribed for hereby are being purchased as follows:

(Check one)

[✓] Individually
[ ] Joint Tenants with Right of Survivorship
[ ] Tenants in Common
[ ] As custodian, trustee or agent for _____[1]
[ ] Partnership[2]
[ ] Corporation[3]
[ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC. AND RETURN WITH AN EXECUTED COPY OF THIS AGREEMENT TO:

FB Financial Group, Inc.
35 E. Wacker Drive, Suite #550
Chicago, Illinois 60601

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1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:

Illinois

State in which Purchaser pays income taxes: Illinois

Purchaser(s) name [Please print]: F [redacted] Karlin

[redacted]

Purchaser's Business Address:

_____

_____

_____

Work Phone: _____

Work Fax: _____

FB Financial Group, Inc.

An Illinois corporation

COMMON SHARES

SUBSCRIPTION AGREEMENT

This **SUBSCRIPTION AGREEMENT** (this "Agreement"), dated as of 5/10 2010, is entered into between FB Financial Group, Inc., an Illinois corporation (the "Company"), and the person(s) named on the signature page hereof under the heading "PURCHASER" ("Purchaser").

WHEREAS, Purchaser desires to subscribe for and purchase from the Company, and the Company desires to issue and sell to Purchaser, shares (the "Shares") of Common Stock, $.001 par value ("Common Stock"), of the Company as set forth on the signature page hereof, on the terms set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Subscription. Purchaser hereby irrevocably subscribes for the Shares under the terms and conditions set forth herein. The purchase price (the "Purchase Price" or "Subscription") for each Share shall be **$0.50 (fifty cents).**

1. Closing. Subject to Section 14, the closing of the purchase and sale of the Shares (the "Closing") shall take place at the principal offices of the Company, 35 E. Wacker Drive, #550, Chicago, IL 60601, at 5:00 p.m., Chicago time on _____, 2010, or at such later date or time as the Company and Purchaser may agree.

2. Deliveries by Purchaser. At the Closing, Purchaser shall execute where appropriate and deliver to the Company two executed counterparts of this Agreement along with payment of the Purchase Price by check or bank transfer.

3. Deliveries by the Company. At the Closing, the Company shall deliver to Purchaser a certificate or certificates representing the Shares duly executed and authenticated by the Company, and two executed counterparts of this Agreement.

4. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii) if this subscription is accepted, the Shares purchased pursuant hereto will be issued only in the name of the Purchaser as indicated on the signature page below; and (iii) all dispositions of Shares by Purchaser must comply, in the sole judgment of counsel to the Company, with applicable law, including state and federal securities law.

5. Accredited Investor. Purchaser represents and warrants to the Company that Purchaser is an "accredited investor" because Purchaser is (please initial applicable box(es):

[✓] (a) an individual whose individual net worth, or joint net worth with his or her spouse (if any), at the time of purchase exceeds $1,000,000;

[ ] (b) an individual who had an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse (if any) in excess of $300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current calendar year;

[ ] (c) a director or an executive officer of the Company;

[ ] (d) a trust or a person acting on behalf of a trust (i) with total assets in excess of $5,000,000, (ii) which was not formed for the specific purpose of acquiring the Shares, and (iii) whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] (e) any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, corporation, Massachusetts or similar business trust, or partnership (i) not formed for the specific purpose of acquiring the Shares, and (ii) with total assets in excess of $5,000,000; or

[ ] (f) any entity in which all of the equity owners are accredited investors.

Purchaser acknowledges that the Company is relying on Purchaser's representations and warranties in this Agreement for purposes of determining whether it may accept Purchaser's subscription for Shares in light of the requirements of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder.

6. Shares Unregistered. Purchaser acknowledges that:

(a) the offer and sale of the Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares,

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend (as contemplated by Section 10 hereof) shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

7. Additional Investment Representations. Purchaser represents, warrants and acknowledges to the Company that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the Offering;

(b) All documents, records and information pertaining to an investment in the Company which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant. Any projections prepared by the Company have not been the basis upon which Purchaser has made his or her decision to invest in the Company;

(e) There can be no assurance that the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available (A) will be acceptable to the Company, and (B) will not have an adverse or other effect upon the rights and privileges of the holders of Shares;

(f) No documents or oral statements given or made by the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

(h) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives;

(i) Purchaser may not be able to sell or dispose of the Shares even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Shares) is not disproportionate to Purchaser's net worth;

(j) The address set forth on the signature page hereof is Purchaser's true and correct residence, and Purchaser has no present intention of becoming a domiciliary of any other state or jurisdiction, and Purchaser will promptly notify the Company of any change in Purchaser's place of residence;

(k) Purchaser has no reason to anticipate any change in Purchaser's circumstances, financial or otherwise, which may cause or require any sale or disposition by Purchaser of any of the Shares;

(l) The Company has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Shares, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Shares; and

(m) Purchaser understands that: (i) an investment in the Shares involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Shares; and (iii) there currently are restrictions upon the transferability of the Shares and no public market for the Shares within the Shares is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Shares when desired (even in the event of an emergency).

8. Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "**IPO**"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "**Lockup Period**" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 9 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 9 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

9. Legend. In addition to any other legends that the Company determines are advisable or necessary, each certificate representing the Shares shall bear a legend substantially to the following effect:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state of the United States or any non-U.S. jurisdiction. The securities cannot be offered, sold, transferred or otherwise disposed of except (i) pursuant to an effective registration statement under such Act and any other applicable securities laws or (ii) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of such Act and such other applicable securities laws. The securities are also subject to the terms of the Subscription Agreement dated as of _____, 2010 between FB Financial Group, Inc., an Illinois corporation (the "Company") and the initial holder of the securities evidenced by this certificate, including the restrictions on transfer set forth in Section 9 thereof. A copy of such Subscription Agreement is available for review at the principal office of the Company. The corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations and restrictions of such preferences and/or rights.

10. Indemnification. Purchaser shall defend, indemnify and hold harmless the Company and its successors, officers, directors, stockholders, employees, representatives, agents and affiliates (collectively, the "Indemnitees") from and against any claim, liability, loss, damage or expense, including reasonable attorneys' fees, suffered by any one or more of the Indemnitees arising out of or resulting from any inaccuracy in or breach of any of the representations, warranties, covenants or agreements made by Purchaser herein.

11. Subscription Irrevocable; Benefit of Agreement. This subscription may not be canceled, terminated or revoked by Purchaser, and this Agreement and all the terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, permitted successors and permitted assigns. To the extent that the Indemnities are not parties hereto, they shall be third party beneficiaries of this Agreement.

12. Certain Tax Matters. Under penalties of perjury, Purchaser hereby certifies that: (i) Purchaser's correct social security number and home address are as set forth on the signature page hereto; (ii) Purchaser is not subject to backup withholding because (A) Purchaser is exempt from backup withholding, or (B) Purchaser has not been notified by the Internal Revenue Service ("IRS") that Purchaser is subject to backup withholding as a result of a failure to report all interest and dividends, or (B) the IRS has notified Purchaser that Purchaser is no longer subject to backup withholding; and (iii) Purchaser is a U.S. person (including a U.S. resident alien). The Purchaser will, upon the Company's request, complete and submit to the Company a Form W-9 regarding Purchaser's taxpayer identification number and other matters.

13. Rejection; Termination of Offer. Notwithstanding any provision to the contrary herein: (i) the Company shall have the right, in its sole discretion, at any time prior to issuing the Shares, to reject this subscription; and (ii) Purchaser shall have no rights or obligations hereunder if this subscription is so rejected.

14. Miscellaneous. This Agreement shall be governed by the substantive law of the State of Illinois, without reference to any choice of law principle that would cause the law of any other jurisdiction to be applicable. As used herein, "including", "includes" and words of like import shall be construed broadly as if followed by the words "without limitation". This Agreement may be executed in counterparts. Copies (including counterpart copies) of this Agreement sent by facsimile shall be treated as originals. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all understandings and agreements of the parties, whether oral or written, with respect to the subject matter hereof Purchaser hereby irrevocably consents and submits to the exclusive jurisdiction of Illinois state courts located in Chicago, Illinois (or the United States District Court for the Northern District of Illinois) in all suits or other actions (including at law or in equity) between the parties relating to this Agreement. The parties waive any right to trial by jury.

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

THE COMPANY:

FB Financial Group, Inc.
an Illinois corporation

By: _____ CEO

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER SIGNATURE PAGE

PURCHASER(S):

Purchaser's sign here [redacted]

Number of Shares Subscribed for: 25,000

Consideration Paid: $12,500

(Minimum investment: $25,000 - Subscriptions do not need to be in $25,000 increments)

Date: 5/13/10

The Shares subscribed for hereby are being purchased as follows:

(Check one)

- [X] Individually
- [ ] Joint Tenants with Right of Survivorship
- [ ] Tenants in Common
- [ ] As custodian, trustee or agent for _____[1]
- [ ] Partnership[2]
- [ ] Corporation[3]
- [ ] Limited Liability Company[4]

PLEASE MAKE CHECK PAYABLE TO FB FINANCIAL GROUP, INC. AND RETURN WITH AN EXECUTED COPY OF THIS AGREEMENT TO:

FB Financial Group, Inc.
35 E. Wacker Drive, Suite #550
Chicago, Illinois 60601

---

1 If a custodian, trustee or agent, include a certified copy of the trust, agency or other agreement and a certified copy of the written authorization of the investment.

2 If a partnership, include a copy of the partnership agreement and a certified partnership resolution authorizing the investment.

3 If a corporation, include the certified corporate resolution authorizing the investment.

4 If a limited liability company, include a copy of the LLC operating agreement and a certified LLC resolution authorizing the investment.

FB Financial Group, Inc.

COMMON STOCK
SUBSCRIPTION AGREEMENT
PURCHASER INFORMATION PAGE

State in which Purchaser has maintained his or her principal residence(s) during the last two years:
Illinois

State in which Purchaser pays income taxes: Illinois

Purchaser(s) name [Please print]: [redacted] Karlin

Purchaser's Residence Address:

[redacted]

Purchaser's Business Address:

EXHIBIT 10

Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings / Joe Fox

Mary:

I received your voicemail. Attached are the revised Offer and Order. Please let us know on Monday whether Mr. Fox will be signing the Offer.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Hansen, Mary P. [mailto:Mary.Hansen@dbr.com]
Sent: Friday, May 08, 2015 1:25 PM
To: Forkner, Jedediah B.
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings / Joe Fox

Jed and Anne –

Again, apologies for the delay. I have attached the draft Offer with a few minor comments. Most of them are fairly straight-forward and self-explanatory.

With respect to the changes in paragraphs 12 and 14, they simply reflect Mr. Fox was not aware the individuals Mandel referred to him were "subscribers." We do not there is any legal significance to describing them as "subscribers."

With respect to the changes in paragraph 16, Mr. Fox believes that only one purchaser had previously identified himself as a non-accredited investor.

Finally, with respect to Section IV., Mr. Fox wants to preserve his right to request a hearing and present live testimony with regard to the determination of remedial sanctions.

Thanks for your consideration.

Mary

From: Hansen, Mary P.
Sent: Thursday, May 07, 2015 11:14 AM
To: 'Forkner, Jedediah B.'
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings / Joe Fox

Hi Jed and Anne –

I apologize for the delay in getting back to you. I was out of the office for the last three days due to an unexpected death in the family. I will be in contact with Mr. Fox today and get back to you as soon as possible.

Mary

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Thursday, May 07, 2015 11:08 AM
To: Hansen, Mary P.
Cc: McKinley, Anne C.
Subject: FW: Ditto Holdings / Joe Fox

Mary:

Has Mr. Fox signed the offer?

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Forkner, Jedediah B.
Sent: Monday, May 04, 2015 9:41 AM
To: Hansen, Mary P. (Mary.Hansen@dbr.com)
Cc: McKinley, Anne C. (McKinleyA@sec.gov)
Subject: Ditto Holdings / Joe Fox

Mary:

The revised draft offer and order are attached. Please review and let us know whether you have any questions or comments.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

****
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****

****
Drinker Biddle & Reath LLP is a Delaware limited liability partnership. The partner responsible for the firm's Princeton office is Jonathan I. Epstein, and the partner responsible for the firm's Florham Park office is Andrew B. Joseph.
****
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****

EXHIBIT 11

DITTO TRADE

Joe Fox <jfox@sovestech.com>

Call with Staff

1 message

Hansen, Mary P. <Mary.Hansen@dbr.com> Thu, May 14, 2015 at 5:04 PM
To: "Joe Fox (jfox@sovestech.com)" <jfox@sovestech.com>
Cc: "Leaf, Marc A." <Marc.Leaf@dbr.com>

Joe –

Anne and Jed were in rare form today. They refused most of changes – there were a few minor ones that they agreed to make.

They refused to add the sentence about your disciplinary history.

They refused to budge on the "subscriber" issue because of "consistency" concerns. Translated that means they want the same language in your offer as they used in Mandel's offer.

With respect to the change from "any" to "all" in paragraphs 16 and 18 – they are adamant about using "any" because you did not try to establish the accredited status of any investor and, therefore, "any" is more appropriate. They said that they were willing to do "all" with the Company because the Company did check the accreditation status of some investors.

With respect to "two" investors identifying themselves as being non-accredited – they claim that came out of your testimony. Accordingly, they refuse to change it. They also refuse to insert the language about the amount of shares issues to non-accredited status. They claim that they don't know that only two were non-accredited – again they are relying on your testimony so they refuse to change it.

They are willing to add to the last paragraph – "or in person testimony." They don't want to add the language about upon request by Respondent.

They want to send us final version for your signature tomorrow.

Do you have time to talk in the morning?

Mary

Mary P. Hansen

Drinker Biddle & Reath LLP

One Logan Square, Ste. 2000

Philadelphia, PA 19103-6996

(215) 988-3317 *office*

(484) 433-2236 *mobile*

Mary.Hansen@dbr.com

www.drinkerbiddle.com

EXHIBIT 12

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. C-08037-A

DITTO HOLDINGS, INCORPORATED)

WITNESS: Yosef Y. Fox

PAGES: 1 through 219

PLACE: Securities and Exchange Commission
175 West Jackson Boulevard
Room 9154
Chicago, Illinois 60604

DATE: Wednesday, December 10, 2014

The above-entitled matter came on for hearing, pursuant to notice, at 9:57 a.m.

APPEARANCES:

On behalf of the Securities and Exchange Commission:
JEDEDIAH FORKNER, Senior Attorney
ALYSSA A. QUALLS, Senior Trial Counsel
ANNE McKINLEY, Assistant Regional Director
Securities and Exchange Commission
Division of Enforcement
175 West Jackson Boulevard
Suite 900
Chicago, Illinois 60604

On behalf of the Witness:
MARK A. STANG, ESQ.
Chuhak & Tecson
30 South Wacker Drive
Suite 2600
Chicago, Illinois 60606
(312) 855-5445

CONTENTS

CONTENTS (CONT.)

PROCEEDINGS

MR. FORKNER: We are on the record at 9:57 a.m. on December 10, 2014. Mr. Fox, would you please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

MR. FORKNER: Please state and spell your full name for the record, including your middle name.

THE WITNESS: Yosef Yehuda Fox, Y-o-s-e-f, Y-e-h-u-d-a, F-o-x.

Whereupon,

YOSEF Y. FOX

was called as a witness and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. FORKNER:

Q Do you also go by Joseph?

A Joseph Fox, Joe Fox.

Q My name is Jedediah Forkner. I'm a senior attorney with the Division of Enforcement. With me is Anne McKinley, as Assistant Regional Director with the Division of Enforcement. The two of us are Officers of Commission for the purposes of this proceeding. Also with us is Alyssa Qualls, a trial counsel with the Division of Enforcement. Ms. Qualls is not listed in the

Q And what paperwork, if any, did you use in connection with your sales?

A I had a stock purchase agreement similar to, I believe, what the, what I've used, well maybe not, well maybe it is. I have to see it. Give me your copy of it. Yes, very consistent with this.

Q Mr. Fox, I'm handing you what's been marked as Exhibit No. 45.

(SEC Exhibit No. 45 was marked for identification.)

A Thank you.

Q Please take a minute to review it. For the record, Exhibit No. 45 begins on JJFOX040822. It ends on JJFOX040828.

A Okay.

Q Mr. Fox, are you familiar with Exhibit No. 45?

A Yes, I am.

Q Can you tell us what it is?

A A stock purchase agreement.

Q Is this one of the stock purchase agreements that you used in connection with your personal sales of Ditto Holdings stock?

A I do believe so.

Q Did you create this stock purchase agreement?

A This is a template, I believe that Stu used, Stu Cohn, the company's counsel. He provided it to me consistent with what my brother's used or we used for my brothers.

Q Did each of the individuals who purchased stock from you complete or fill out one of these stock purchase agreements?

A Yes, they did.

Q Was there any other paperwork that was provided to them or that they completed?

A No, there wasn't.

Q And who set the terms of each of these agreements?

A I did. They're all individually negotiated.

Q Does that mean that you'd negotiate them between, negotiations between yourself and the buyer?

A Yes, that sometimes they were 90 cents, sometimes a dollar, sometimes a $1.10. Depends how much they were buying, depends in they were an existing shareholder, hence, you know, depends on my mood. It was negotiations between the two of us.

Q Did you provide the buyers with any information about Ditto Holdings, the company?

A No. This was, I, I do believe this was the only document.

BY MS. McKINLEY:

Q Did you provide any information to the investors in addition to the documentation orally?

A Anything they asked me I would deliver to them, yeah. I mean, if they, I, I had many conversations so I would have explained the business model, what our strategy was, our objectives, and, and then there's conversation I remember having in one specific e-mail that, where he said, well, I'm, I'm curious. You're selling stock at $1.00, or maybe it was $1.10 and yet the company was selling stock for a $1.25, what's the difference. I said, well, the $1.25 goes to the company. The company's going to use that money to grow the company. Money you're buying my stock, the money's not going to go to the company. So, that's the benefit. That's why the dollar would be more expensive when the money was, was higher to go to the company because that was growth capital. This is not growth capital so you're, you're going to get a better deal knowing you're not, this is not growth capital. And I've explained that in the e-mail.

BY MR. FORKNER:

Q I think you answered this before, but how many buyers purchased from you? Was it 25 to 30?

A Yeah, 30, 35, yeah, something like that.

Q And how much money did you raise from the sales of your stock?

A A million, two hundred thousand and change.

Q And where was that money deposited?

A Most of it was Wells Fargo. Some of it was my money market account at Apex Clearing.

Q Did any of the funds go anywhere other than those two accounts?

A I don't believe so. Well, just to be clear, that, at Wells Fargo there's a couple of accounts. There's a savings and a checking and stuff like that. It's connected.

Q Okay. Did you determine whether each of those purchasers was accredited or non-accredited?

A I believe they all were accredited and I was wrong. There were two non-accredited's.

Q What was your belief based on?

A A lot of them were existing shareholders so I knew from their status. But, there was a couple of new ones that I was not as familiar with, unfortunately, and I, I thought I had it on here where we, where it specifically said that I am an accredited investor and whatever, and I, unfortunately, I missed that. That was my, my mistake only.

Q Did each of the investors, did they inform you

in connection with their purchases of your personal sales whether they were accredited or non-accredited?

A No. I believe that they, because there is, most of them of are existing shareholders I believe that they were already, I knew them, them to be non-accredited. I mean, sorry, to be accredited, excuse me. But, I missed it. There was two that weren't accredited. I do take responsibility for that.

Q Separate from any past sales, just in connection with your personal sales, did you have them identify themselves as accredited or non-accredited?

A No. I knew them.

Q Did you file a registration statement with the Securities and Exchange Commission in connection with your sales?

A No, I did not.

Q Did you file any other paperwork with the SEC?

A I don't believe I was required to.

Q Did you rely on any exemption for the registration requirements for your sales?

A Yes, I did.

Q What exception did you rely on?

A What's commonly known as four one and-a-half which my attorney wrote a book on it. But that's neither here nor there.

MR. STANG: Have you read it?

THE WITNESS: Part of it.

MR. STANG: All right.

BY MR. FORKNER:

Q How did you comply with that exemption?

A Well, I believe they're all non-accredited, I'm sorry. I believe they were all accredited and I, I made a mistake on that. And I think the other reps and warranties or all the different disclosures are there. I believe, absolutely, I, I believe a 100 percent that I complied based on what I believe the four one and-a-half to stand for.

Q Was your initial reliance on this exemption based on your understanding that they were all accredited?

A Yes.

Q Now that you're aware that there were non-accredited investors who purchased from you do you believe that that exemption still applies?

MR. STANG: Well, I'm going to object to the form of the question. I don't know if he said that they were non-accredited or if he said there were?

THE WITNESS: There were two non-accredited.

MR. STANG: Just a moment, Mr. Fox, I'm talking right now, okay.

THE WITNESS: Sorry.

MR. STANG: I'd ask you a question and ask you to rephrase and make it clearer --

MR. FORKNER: I can rephrase.

MR. STANG: Either refer to the two or say some, some were, but I thought that your question was now that you now they were all non-accredited, that they were unaccredited, wasn't clear what we were --

MR. FORKNER: I'll rephrase.

MR. STANG: Okay, thank you.

BY MR. FORKNER:

Q Now that you know there were two non-accredited investors or at least two non-accredited investors who purchased from you do you believe that the exemption, that you still meet the requirements of the exemption?

MR. STANG: Objection, calls for legal conclusion.

MS. McKINLEY: You can answer.

MR. STANG: If you're able to render a legal opinion.

THE WITNESS: I was once called a jailhouse lawyer. Stu called me that in 1995 when he first met him. I thought it was an insult in talking for six months anyways. Then I said, wait, maybe it was more of a compliment so I hired him.

MR. STANG: So we digress.

THE WITNESS: So we digress. I, I get one of those. I, I, yeah, absolutely, I believe I'm still, I have the proper exemption for every one but those two.

BY MR. FORKNER:

Q Did you ask Mr. Mandel to help find potential buyers for your shares?

A I really --

MR. STANG: Objection, asked and answered twice.

MS. McKINLEY: This is for his personal --

MR. STANG: You can answer it again.

MS. McKINLEY: This is for his personal shares. We're not talking about the Ditto Holdings shares anymore.

MR. STANG: You might be right. Then I withdraw the objection. Sorry, I misunderstood.

THE WITNESS: I really don't remember the exact conversation that we had about that.

BY MR. FORKNER:

Q Do you recall having a conversation?

A I remember we talked about it and I think he, he thought that there were investors that would like to buy stock at the time when we were in-between, I believe we, we were in-between rounds and, and wanted to know if

EXHIBIT 13

Paul M. Simons Emailed Robert J. Burson of the SEC Directly on September 18, 2013

As there was no communication with the SEC since the morning of September 10, 2013 when Huey-Burns claimed that Joseph was attempting to "***circle the wagons***" and that "***bank statements and other documents may be subject to damage or alteration***", Simons took matters into his own hands.

On September 18, 2013, concerned that the SEC lost interest in his scheme, Simons wrote an email to his attorney Paul Huey-Burns' pal "Bob" Burson, Associate Regional Director of the SEC, with the intent to harm Joseph. See September 18, 2013 email from Simons to Bob Burson, attached hereto as Exhibit A. We will take that email in parts:

> **From: COMCAST [redacted]t]**
> **To: Burson, Robert J. [BursonR@sec.gov]**
> **Subject: Fwd: Confidential - Referral of Matter for Potential Investigation**
> **Date: Wednesday, September 18, 2013 11:50:30 PM**
> **Attachments: CCE00000.pdf**
>
> **Mr. Burson - please forgive me if this communication is out of protocol, but the events which have transpired over the last 8 days, all unimaginable results of simply trying to do the right thing, have brought me to a place I did not believe was possible just 8 days ago.**

Simons begins his letter with a dramatic flair so that he could get Mr. Burson to feel sympathy for his plight. His plan works perfectly. Between the lies told by Huey-Burns and the lies told directly by Simons, in just 18 hours Mr. Burson directed his staff attorneys, Ms. McKinley and Mr. Forkner, to contact Huey-Burns to schedule a call between the SEC and Simons. See September 19, 2013 email from Forkner, attached hereto as Exhibit B.

Simons once again acts as if his termination came as a big surprise

> **Last Monday morning I, as CEO of Ditto Trade and an Officer and Board Member of the parent Ditto Holdings, Inc, a private shareholder owned company, together with 2 other executive offers of the company (the President of Ditto Holdings, Inc. and the CFO of Ditto Trade) brought to the attention of the Board of Directors of Ditto Holdings information which raised serious, substantive, and well-documented potential issues which might have included among other things past and ongoing violations of securities laws.**

Simons once again uses the "it wasn't just me" argument to make his lies seem more plausible. Simons fails to mention that he was aware that it was the 26-year-old "CFO" who committed misfeasance and malfeasance. He also fails to mention that the 26-year-old "President" had no independent knowledge of any issues or concerns. See Stillman affidavit, attached hereto as Exhibit C.

Simons tells his own version of the lie told by Huey-Burns that the allegations were "substantive and well-documented". Simons knew full well that the so called "100% Undisputable Fox Expense" spreadsheet that he was referring to was nothing but a list of salacious, unproven and fabricated garbage. A list that he and Mann threw together in less than 9 hours, that took nearly 1,000 hours to do correctly.

> **We undertook this action with no motivation other than doing the right thing by the company and its shareholders, and retained counsel to guide us as to our obligations and to protect our rights against retaliation.**

Simons continues the false narrative that he had no motivation other than "doing the right thing by the company and its shareholders". Since when does lying to the SEC, FINRA and the shareholders constitute "doing the right thing by the shareholders"? Plus, how does contacting the PGA 6 days later with his scheme to fabricate evidence against Joseph constitute "doing the right thing by the shareholders"?

Simons fails to mention that he did not engage Mr. Burson's friend and former co-worker Huey-Burns until AFTER he realized that the decision to terminate him was finalized.

> **We also took the additional step that day of notifying the SEC of the situation and of our action via counsel (email below).**

Simons attaches his September 9, 2013 Board Demand Letter, even though he knows that Mr. Burson has already received it from Huey-Burns. Simons obviously believes that if you tell a lie enough times, people will start to believe it. (Also known as an "Echo Chamber")

There should be no doubt that Simons fully authorized the communication Huey-Burns sent to the SEC on September 9, 2013. This is in direct contrast to his deposition testimony of December 16, 2015 where he tried to distance himself from Huey-Burns email. See Simons testimony from December 16, 2015, attached hereto as Exhibit D.

> **Since then, I have suffered a series of egregious retaliatory actions by the company and by the individuals who may have been implicated by our actions, including attempts to intimidate me by General Counsel for the company and another Board Member, followed by my immediate termination from Ditto Trade, immediate suspension and subsequent firing for cause from Ditto Holdings, elimination of all compensation and benefits, removal from the Board of Directors at the behest of the Chairman who was implicated by our information,**

Once again, Simons fails to mention that he knew he was being fired for reasons unrelated to any of his purported [redacted] activity. By detailing all of the common things that occur when one is terminated (i.e., loss of compensation and benefits), Simons is attempting to make his false claim of retaliation look more egregious.

Simons falsely claims of being intimidated by the Company's General Counsel and another Board Member. It is well documented that Simons knew that he was being terminated when he

rushed delivery of his Board Demand Letter. It was very clear to the Company that Simons was acting out in an effort to stave off said termination. Therefore, the fact that the Company's General Counsel and the other Board Member respectfully asked Simons to leave the office until the commencement of the September 11, 2013 special Board meeting that he demanded, would in no way constitute intimidation.

> **and I am now concerned by threats from the company and counsel of legal action against me for allegedly attempting to cause the company harm by my actions,**

This is another lie. Simons writes this email to Mr. Burson at 11:50pm on September 18, 2013. Simons was already served with a lawsuit by Ditto Holdings earlier that evening. On September 19, 2013, Ditto Holdings counsel emailed the following:

> "***Our process server in New York reports that Paul Simons was served last night [September 18, 2013] at his home by delivering a copy of the complaint to Simons' daughter. Simons apparently was not at home.***"

See September 19, 2013 email, attached hereto as Exhibit E.

Does Simons expect anyone to believe that his 17-year-old daughter did not immediately tell her father about the service? Let's assume that she waited until her father came home. Are we to believe that she did not give it to him the moment he walked in the door? Obviously, Simons felt it was more impactful to make Mr. Burson believe that he was scared about a potential lawsuit, then one that is already filed. Perhaps this is because Simons believed that Mr. Burson would request a copy before he made a decision on initiating an investigation, and that the truth, as stated by the Company would hurt his chance to use the federal government to destroy Joseph.

> **including , as described in a letter from counsel for the company, on the basis that "it was not in the interest of any officer, director or shareholder of the Company, for Mr. Simons to reach out to governmental authorities to attempt to involve them..."**

Simons attempts to mischaracterize the facts when he purposely omits the balance of the sentence he was quoting:

> *"There was simply no need, and it was not in the interest of any officer, director or shareholder of the Company, for Mr. Simons to reach out to governmental authorities to attempt to involve them in an internal governance process that was already underway, as Mr. Simons had requested, and that is based upon what even Mr. Simons has admitted are unverified, incomplete facts and suppositions."*

See email from Company's outside counsel, attached hereto as Exhibit F.

Obviously, if Simons was truly acting out of concern for the Company and its shareholders, and not to stave off termination, he could have always escalated.

I have enjoyed a 25 year unblemished career in the securities business, including a number of very senior positions, and have always prided myself in doing the right thing.

Simons is trying to create a sense of gravitas, in an effort to make his lies look plausible.

Up until all of the malicious effort to destroy him, Joseph enjoyed a 20+ year unblemished career in the securities business. Including running two very innovative online stock brokerage firms, of which one of them he went through the rigorous SEC process to take public.

Perhaps I was naive, but I genuinely believed that bringing this matter to the attention of both the Board of Directors and appropriate government agencies was the right thing to do in order to ascertain if in fact the company or any of its officers were engaged in activities which violated securities laws, and if so to prevent ongoing fraud through the company's continued capital raising efforts,

Simons claim of fraud here directly contradicts his December 16, 2015 testimony under oath, that unlike Huey-Burns, he never alleged to the SEC that Joseph committed fraud or misappropriated funds. See excerpts from Simons testimony, attached hereto as Exhibit G.

Simons perjured statements in his testimony, are also contradicted in the December 9, 2013 [redacted] Form filed with the SEC, when he made similar false claims of fraud and misappropriation.

and furthermore that retaliation against such actions taken in good faith and in fulfillment of my obligations was an illegal act.

Simons is once again lying by claiming his firing was retaliatory. He is also telling the SEC, through Mr. Burson, that Joseph committed an illegal act. He does not say "alleged" illegal acts.

At this point in time I have been emasculated for trying to do the right thing, and the alleged perpetrator(s) appear to have successfully removed their accuser without consequence.

Wow. Could this be any more melodramatic? Plus, Simons was well aware, as were his attorneys, that the Company was proceeding with Simons' requested independent investigation. In fact, the Company's Board had already engaged a 3rd party law firm. Once again, this was part of Simons malicious effort to get the SEC to falsely prosecute Joseph.

I am very troubled at the prospect that this manner of extreme retaliation for reporting credible concerns to law enforcement can go unchecked, which I did not believe possible when I took this action.

Simons is absolutely calling out the SEC and Mr. Burson. To Simons credit, his efforts here worked. Mr. Burson got the investigative ball rolling only 18 hours later.

The Board Demand Letter, the submission of which triggered this sequence of egregious events, is already in your possession, as are I believe one or more follow up notifications. Each and every item of detail in the Board Letter was based on documents and records presented to me by Officers of the company.

This deserves a wow! First, Simons lies when he [redacted] "documents and records". Second, Simons is lying when he states that every item of detail was provided by OFFICERS plural. We now know, that all of the financial allegations were provided by Mann through the discredited "100% Undisputable Fox Expense" spreadsheet. We also know that it was ONLY Simons that was wrongly interpreting U.S. Securities laws. Even after Mann tried to argue that Simons was wrong about his interpretation.

Although I have been relieved of all duty to the companu (sic) I remain concerned for the shareholders and employees and am ready and willing to assist in any measures pursuant to my original objective, though my objective of protecting my own rights against retaliatory measures has now been precluded.

Simons is admitting to Mr. Burson that his objective was to avoid termination and that has been made impossible by his firing.

It should also be noted that one of the financial transactions in question and cited in our letter concerned payment (s) to Clayton Cohn (aka Market Action), currently I believe under SEC investigation. Clayton Cohn is the son of Ditto Holdings General Counsel Stu Cohn, and I believe that the irrational and extreme retaliation against me in this situation may have been in part been motivated by fear of any linkage discovered (evidence of which I have not seen nor do I suggest other than the unexplained payment(s) to Mr. Cohn on a Ditto bank statement with no evidence of disclosure as a potential related party transaction).

Simons maliciously pieces together two lies to create an even greater criminal allegation against Joseph. First, Simons lies when he states that his termination was an "***extreme retaliation against me.***" Once again, Simons knew of the termination decision before the false Demand Letter and the false correspondence with the SEC. See Exhibit H ("***Joe is firing you on Tuesday***" "***Cool...***"). Second, Simons knew full well that the "***unexplained payment(s)***" to Mr. Clayton Cohn derived from a fully-explained written loan agreement that was commercially viable. In fact, Mann was in possession of that written loan agreement. Further, it was Mann who processed the $15,000 wire transfer to Mr. Clayton Cohn subject to that written loan agreement. See May 6, 2013 Email to Mann with Loan Agreement and wiring instructions, attached hereto as Exhibit I.

For the record, Mr. Clayton Cohn was a shareholder (150,000 shares purchased for $0.33 a share) in Ditto Holdings. Between 2011 and 2012, Mr. Clayton Cohn also referred several high quality investors to Ditto Holdings that ultimately invested approximately $1,250,000 into Ditto Holdings for the benefit of the Ditto Companies and other shareholders. That is certainly more than Simons ever brought to the Ditto Companies.

A corporate loan of $15,000 was made to Mr. Clayton Cohn with the condition that, in the event of a default, Ditto Holdings could purchase up to 150,000 shares at his original purchase price of $0.33 per share (while the Company was, at that time, selling shares at $1.25-$1.50 per share). Mr. Clayton Cohn ultimately defaulted on the $15,000 loan and the Company redeemed 45,000 of Mr. Clayton Cohn's shares. Soon thereafter, the Company sold shares at $1.50 per share, effectively netting the Company $1.16 per share, or $52,650.

When asked what else he did not agree with Simons as to what should, or should not go in the September 9, 2013 Board Demand Letter, Mann testified that he questioned Simons why he was including reference to Clayton Cohn:

Ditto Attorney: *Anything else in here, any item that you say that you could say, I'm not sure about that one, as you just said about Joe Fox's residence and personal car?*

Mann: *I don't know. The $15,000 in market action -- because I don't really remember what that was for. I believe that I did ask Paul why would he -- he just wanted that one in there. I don't remember really what detail was behind that.*

Ditto Attorney: *Did Paul tell you, I want that one in there because it has to do with Stuart Cohn's son?*

Mann: *I don't remember what he told me why he wanted it on there.*

It is quite clear that Simons chose to include the reference to Clayton Cohn in the September 9, 2013 Board Demand Letter in an effort to create the most salacious presentation possible.

Thank you for your attention and you are welcome to contact me as below.

And again, please pardon any protocol issues. I did not utilize the official [redacted] program as I did not seek to beneit (sic) financially from any discovery af (sic) securities law violations. i merely wished to bring to light serious and legitimate concerns, ensure that the company act on them responsibly, protect myself against retaliation (sic), and fulfill any obligation I may have had to alert the appropriate authorities.

Paul M. Simons
psi65@me.com
914 733 2443

Simons closes with is biggest set of lies yet. His false display of altruism, was a well thought out ploy to make him appear to the SEC (through Mr. Burson) that he was seriously aggrieved and everything he said was true. Simons did not have time to go through any "***official*** [redacted] program. He had one business day to act before he was going to be terminated. It

is also important to note that Simons, as well as Mann, did in fact complete the official [redacted] form with the SEC.

His admission in his letter to Burson that his "objective" in filing the SEC charge was to protect his own "rights against retaliatory measures". In other words, he filed the SEC complaint (as well as the Board Letter) to make a record as a [redacted] to concomitantly set up the retaliatory discharge defenses. If his objective was to protect himself from retaliation on Saturday (hiring Paul Huey-Burns whom he had just met the day before), Sunday (confirming termination) and Monday (filing), he must have known he was being fired or some other measures may be taken against him. Remember, retaliation is a response to some event. The problem is that he struck first and second.

From: COMCAST [redacted])
To: Burson, Robert J.
Subject: Fwd: Confidential - Referral of Matter for Potential Investigation
Date: Wednesday, September 18, 2013 11:50:30 PM
Attachments: CCE00000.pdf

Mr. Burson - please forgive me if this communication is out of protocol, but the events which have transpired over the last 8 days, all unimaginable results of simply trying to do the right thing, have brought me to a place I did not believe was possible just 8 days ago.

Last Monday morning I, as CEO of Ditto Trade and an Officer and Board Member of the parent Ditto Holdings, Inc, a private shareholder owned company, together with 2 other executive offers of the company (the President of Ditto Holdings, Inc. and the CFO of Ditto Trade) brought to the attention of the Board of Directors of Ditto Holdings information which raised serious, substantive, and well-documented potential issues which might have included among other things past and ongoing violations of securities laws. We undertook this action with no motivation other than doing the right thing by the company and its shareholders, and retained counsel to guide us as to our obligations and to protect our rights against retaliation.

We also took the additional step that day of notifying the SEC of the situation and of our action via counsel (email below).

Since then, I have suffered a series of egregious retaliatory actions by the company and by the individuals who may have been implicated by our actions, including attempts to intimidate me by General Counsel for the company and another Board Member, followed by my immediate termination from Ditto Trade, immediate suspension and subsequent firing for cause from Ditto Holdings, elimination of all compensation and benefits, removal from the Board of Directors at the behest of the Chairman who was implicated by our information, and I am now concerned by threats from the company and counsel of legal action against me for allegedly attempting to cause the company harm by my actions, including , as described in a letter from counsel for the company, on the basis that "it was not in the interest of any officer, director or shareholder of the Company, for Mr. Simons to reach out to governmental authorities to attempt to involve them . . . "

I have enjoyed a 25 year unblemished career in the securities business, including a number of very senior positions, and have always prided myself in doing the right thing.

Perhaps I was naive, but I genuinely believed that bringing this matter to the attention of both the Board of Directors and appropriate government agencies was the right thing to do in order to ascertain if in fact the company or any of its officers were engaged in activities which violated securities laws, and if so to prevent ongoing fraud through the company's continued capital raising efforts, and furthermore that retaliation against such actions taken in good faith and in fulfillment of my obligations was an illegal act.

At this point in time I have been emasculated for trying to do the right thing, and the alleged perpetrator(s) appear to have successfully removed their accuser without consequence.

I am very troubled at the prospect that this manner of extreme retaliation for reporting credible concerns to law enforcement can go unchecked, which I did not believe possible when I took this action.

The Board Demand Letter, the submission of which triggered this sequence of egregious events, is already in your possession, as are I believe one or more follow up notifications.

Each and every item of detail in the Board Letter was based on documents and records presented to me by Officers of the company.

Although I have been relieved of all duty to the companu I remain concerned for the shareholders and employees and am ready and willing to assist in any measures pursuant to my original objective, though my objective of protecting my own rights against retaliatory measures has now been precluded.

It should also be noted that one of the financial transactions in question and cited in our letter concerned payment (s) to Clayton Cohn (aka Market Action), currently I believe under SEC investigation. Clayton Cohn is the son of Ditto Holdings General Counsel Stu Cohn, and I believe that the irrational and extreme retaliation against me in this situation may have been in part been motivated by fear of any linkage discovered (evidence of which I have not seen nor do I suggest other than the unexplained payment(s) to Mr. Cohn on a Ditto bank statement with no evidence of disclosure as a potential related party transaction).

Thank you for your attention and you are welcome to contact me as below.

And again, please pardon any protocol issues. I did not utilize the official [redacted] program as I did not seek to beneit financially from any discovery af securities law violations. i merely wished to bring to light serious and legitimate concerns, ensure that the company act on them responsibly, protect myself against retaiation, and fulfill any obligation I may have had to alert the appropriate authorities.

Paul M. Simons
psi65@me.com

914 733 2443

From: Paul Huey-Burns
Sent: Monday, September 09, 2013 4:20 PM
To: 'Phillips, Eric M.'
Cc: 'warrent@sec.gov'; 'bursonr@sec.gov'
Subject: Referral of Matter for Potential Investigation

Eric,

I realize that you are busy preparing for trial in the True North matter, but I'm hoping that you could review the attached letter or refer it to someone who is in a position to consider the allegations that it contains. (I've copied Bob and Tim as well.) The letter describes allegations of significant financial misfeasance by Joseph Fox, the Chairman of Ditto Holdings, Inc., the holding company for Ditto

Trade, Inc. (a registered BD). Both Ditto Holdings and Ditto Trade have substantial operations in the Chicago area. These allegations were brought to our attention by Paul Simons, the signer of the attached letter, who is a Director and EVP of Ditto Holdings and CEO of Ditto Trade. (Mr. Simons, among many other things, is a former Managing Director of Credit Suisse Securities, where he served as co-head of the US Private Banking Division.) The allegations are substantive and well-documented and, I believe, raise serious questions as to whether Mr. Fox and certain others involved in senior management have perpetrated or are in the process of perpetrating a fraud on Ditto Holdings' shareholders, and perhaps others. (Ditto Holdings currently is raising capital through a Reg D offering.) Mr. Simons and I would be happy to discuss these allegations with you or any of your colleagues.

Mr. Simons delivered the attached letter to Mr. Fox (and also to Jonathan Rosenberg, the other member of Ditto Holdings' Board of Directors, and to Stuart Cohn, Ditto Holdings' General Counsel) this morning. Mr. Simons requested that the Board initiate an investigation into the matters described in detail in the letter. Mr. Simons has received no direct response and is concerned that Mr. Fox and others involved in senior management have decided not to respond and may be preparing to take retaliatory action against Mr. Simons and two other more junior executives, Jeremy Mann and Adam Stillman, who agree with Mr. Simons that there is significant evidence of Mr. Fox's misfeasance and who support Mr. Simons' actions. Messrs. Simons, Mann and Stillman also are concerned that Mr. Fox and others may attempt to create post-hoc documents or other materials to justify the apparently illegal transactions.

As I said, Mr. Simons and I are available to discuss these issues at your earliest convenience.

Thanks

Paul

PAUL HUEY-BURNS

phuey-burns@shulmanrogers.com | T 301.945.9241 | F 301.230.2891

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 PARK POTOMAC AVENUE, 6TH FLOOR, POTOMAC, MD 20854

ShulmanRogers.com

From: Paul Huey-Burns
To: Danny Krakower; Paul M. Simons
Subject: Fwd: Ditto Holdings, Inc. (MC-08037)
Date: Thursday, September 19, 2013 7:54:58 PM

[redacted]

Shulman Rogers
[redacted] (cell)

Sent from my iPhone

Begin forwarded message:

From: "Forkner, Jedediah B." <ForknerJ@SEC.GOV>
Date: September 19, 2013, 4:53:10 PM EDT
To: "phuey-burns@shulmanrogers.com" <phuey-burns@shulmanrogers.com>
Cc: "McKinley, Anne C." <McKinleyA@SEC.GOV>
Subject: Ditto Holdings, Inc. (MC-08037)

Mr. Huey-Burns:

We would like to set up a time to discuss the information that you and your client, Paul Simons, provided to the staff regarding Ditto Holdings. Please let us know when would be a convenient time to talk.

Thanks,
Jed

Jedediah B. Forkner
Senior Attorney
Division of Enforcement
U.S. Securities and Exchange Commission
175 West Jackson Boulevard, Suite 900
Chicago, IL 60604-2615
Ph: (312) 886-0883
Fax: (312) 353-7398

AFFIDAVIT

I, Adam Stillman, am over the age of 21 and I state the following:

1. I am a Senior Vice President of Ditto Holdings, Inc. ("Ditto"). I have held this position since October 2013. Prior to that, beginning in July 2012, I was the President of Ditto. I joined Ditto initially in 2009 as the Director of Social Media. I was promoted three times before being promoted to the position of President in 2012.

2. My job responsibilities now, and since July 2012, or before, have principally included non-financial operations, technology, and business development. I do not now have, and I have never had as a part of my job responsibilities at Ditto, any role that required knowledge of or involved the financial operations of Ditto or any of its employees or affiliated companies, or knowledge of or access to any of Ditto's financial statements or information or that of any of its employees or affiliated companies. For example, in my work at Ditto, I have never had need or occasion to review or understand company or individual employee bank statements, the financial records, the financial aspects of investor relations, company cash or financial account management or any aspect of the inflow or outflow of corporate, investor or employee funds or payments.

3. During the week of September 2, 2013, I was asked by Paul Simons and Jeremy Mann to join them in a closed door meeting at the Ditto Chicago offices. The meeting was attended solely by Mr. Simons, Mr. Mann and myself. Mr. Simons was at that time an Executive Vice President and member of the Board of Directors of Ditto. Mr. Mann was at that time the Chief Financial Officer of Ditto. Mr. Mann and Mr. Simons explained to me in the meeting that they believed that there had been improper financial transactions by Joseph Fox, Chief Executive Officer and Chairman of the Board of Ditto.

4. Because of what I believed to be Mr. Mann's and Mr. Simons' greater familiarity with financial matters, I relied upon the statements they made to me that such transactions had taken place. I brought no independent knowledge or expertise to these conversations. Mr. Mann told me that he possessed financial company information, including bank statements, which I viewed only briefly. I believe I was included in this discussion due to my title as President of Ditto Holdings.

5. Following my closed door meeting with Mr. Mann and Mr. Simons, I contacted my uncle who is an attorney. I was concerned by what Mr. Mann and Mr. Simons were alleging. My uncle put me in touch with lawyers at the Schulman Rogers firm in Washington, DC.

6. I did not independently investigate, verify or seek information regarding the assertions of the September 9 letter. I did not discuss the assertions of the September 9 letter with Mr. Fox, Mr. Rosenberg or Mr. Cohn.

7. I was aware that there was friction between Mr. Fox and Mr. Simons regarding

certain business initiatives and also regarding relations with employees and shareholders that dated to the beginning of Mr. Simons' employment.

8. Mr. Fox had told me he had been dissatisfied with Mr. Mann for some time regarding his work habits and excessive tardiness and that Mr. Fox had expressed that dissatisfaction to Mr. Mann. I shared Mr. Fox's thoughts regarding Mr. Mann's tardiness.

9. With regard to the affidavit submitted by Mr. Simons to the state court in connection with his litigation with Ditto, in paragraph 10 of that affidavit Mr. Simons said that I assured him that a review of the financial records of Ditto for 2009 through 2011 would reveal information similar to the information which Mr. Simons and Mr. Mann claimed to be using to support the allegations of the September 9 letter. Because I have never reviewed any financial information of the Company, any assurance made would have been reliant on Mr. Mann's familiarity of financial matters.

10. With regard to paragraph 12 of Mr. Simon's affidavit, Mr. Simons says that "we made a detailed review" of the information that he claims supports the September 9 letter, and that "we conducted a first-hand examination of bank statements and public SEC filings". I personally did not make any such review or examination of any documents or information.

11. I had no prior knowledge of Mr. Simons' email to all Ditto shareholders which he sent on September 11, 2013. I had no idea that he planned to send an email to shareholders. I was upset when I saw Mr. Simons' email to shareholders when I received it on my IPhone during a meeting on September 11 with Mr. Fox.

12. Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct.

Dated: December 9, 2013

Adam Stillman

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

PAUL SIMONS, an Individual,	)	
Plaintiff,	)	
vs.	)	No. 14 C 309
DITTO TRADE, INC., an Illinois	)	
Corporation, DITTO HOLDINGS,	)	
INC., a Delaware Corporation,	)	
and JOSEPH FOX, an Individual,	)	
Defendants.	)	

The deposition of PAUL MICHAEL SIMONS, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, at 111 South Wacker Drive, Suite 4100, Chicago, Illinois, on December 16, 2015, at the hour of 9:23 a.m.

Reporter: Kim Bures, CSR, RDR, CRR, CBC, CCP.
Illinois CSR License No.: 084-003292.

APPEARANCES:

LOCKE LORD LLP, by:
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allen.woolley@lockelord.com,
representing the plaintiff;

STANG LAW FIRM, by:
MR. MARK A. STANG,
584 Hyacinth Place,
Highland Park, Illinois 60035,
(847) 432-2073,
mstang@stang-law.com,
representing the defendants.

ALSO PRESENT:
MR. JOSEPH FOX,
MR. D. JONATHAN ROSENBERG, and
MR. STUART A. COHN.

* * * * *

I N D E X

E X H I B I T S

(Exhibits retained by Mr. Stang.)

Q. It's Monday, September 9, after your long night session up until almost 4:00 a.m.

A. Yes. Documents had been provided.

Q. What were they?

A. I don't recall.

Q. Do you have them gathered electronically in some fashion like in a folder that you sent to Huey-Burns or that's sent to a Dropbox or put on a drive or something like that?

A. I don't remember.

MR. WOOLLEY: On all of these can you wait to make sure I don't have an objection?

THE WITNESS: Oh, I'm sorry.

MR. WOOLLEY: That's okay.

BY MR. STANG:

Q. Now, did you review this e-mail, a draft of this e-mail to the SEC before it went out?

A. The first time I ever saw this e-mail was at 4:28:03 p.m. on September 9.

Q. Did you review a draft of this e-mail --

A. Never.

Q. -- before that time?

A. Never.

Q. When you read this e-mail to the SEC, did

you believe there was anything in it inaccurate?

A. Yes.

Q. What did you believe was inaccurate?

A. The statement that these allegations were brought to our attention by Paul Simons, which was not entirely true, but I did sign the letter, which only a sitting board member can sign the letter.

Q. What would have made that statement accurate?

A. At a minimum it would have said Adam Stillman and Jeremy Mann.

Q. Did you ever take any actions to try to have what you perceive as a misstatement in the e-mail rectified?

A. No.

Q. Now, any other inaccuracies that you perceive in this e-mail to the SEC?

A. You'll have to give me a minute because I haven't really read it in that context.

I mean, there is a statement here that says, Mr. Simons has received no direct response. I don't know what Huey-Burns meant. I can't divine exactly what he meant by that, if he meant no direct response, period, like Stu and Jon coming

From: Shapiro, Daniel P.
To: Joe Fox (jfox@dittoholdings.com); Stu Cohn (scohn@dittoholdings.com)
Cc: Patt, Jeffrey R.
Subject: Service on Paul Simons
Date: Thursday, September 19, 2013 6:49:51 AM

Joe and Stu,

Our process server in New York reports that Paul Simons was served last night at his home by delivering a copy of the complaint to Simons' daughter. Simons apparently was not at home.

Best,

Dan

DANIEL P. SHAPIRO
Partner
Katten Muchin Rosenman LLP
525 W. Monroe Street / Chicago, IL 60661-3693
p / (312) 902-5622 f / [redacted] m / (312) 330-5402
daniel.shapiro@kattenlaw.com / www.kattenlaw.com

Joseph Fox

From: Stu Cohn <scohn@dittoholdings.com>
Sent: Friday, September 13, 2013 9:25 AM
To: 'Shapiro, Daniel P.'
Cc: 'Patt, Jeffrey R.'
Subject: Simons

Thanks again Dan.

Stu

From: Shapiro, Daniel P. [mailto:daniel.shapiro@kattenlaw.com]
Sent: Friday, September 13, 2013 11:16 AM
To: Stu Cohn (scohn@dittoholdings.com)
Cc: Patt, Jeffrey R.
Subject: FW: Simons

Of course, Stu. Here it is.

DANIEL P. SHAPIRO
Partner
Katten Muchin Rosenman LLP
525 W. Monroe Street / Chicago, IL 60661-3693
p / (312) 902-5622 f / [redacted] m / (312) 330-5402
daniel.shapiro@kattenlaw.com / www.kattenlaw.com

From: Shapiro, Daniel P.
Sent: Thursday, September 12, 2013 7:32 PM
To: dkrakower@shulmanrogers.com; phuey-barnes@shulmanrogers.com
Cc: Patt, Jeffrey R.
Subject: Simons

Dear Danny and Paul,

On September 9, 2013, your client, Paul Simons, sent our client, Ditto Holdings, Inc. ("DHI" or "the Company"), a letter demanding that DHI appoint a special committee of its Board of Directors to conduct an internal investigation of certain facts that Mr. Simons claims to know. Having received Mr. Simons' demand, and without regard to the merits of his position, DHI determined that the best response to Mr. Simons, in the interest of the Company and its shareholders, would be to appoint a special committee and empower it to conduct the investigation requested by Mr. Simons. We have informed you of all of this over the past few days, as our client has digested and responded to Mr. Simons' demand. To be clear, DHI received Mr. Simons' demand on Monday of this week. By Wednesday – yesterday – you and your client knew that a special committee was being appointed and the member of that committee was

spending the better part of the day interviewing prospective firms to act as independent counsel. There is nothing in Mr. Simons assertions, even if they are all true, which asserts any immediate wasting of corporate assets, or otherwise required that DHI respond more quickly than it has, within hours and days, not weeks, or longer.

Nevertheless, your client, who is both an officer and director of DHI and has fiduciary duties to act in the best interests of the Company, has seen fit to make public statements and take other actions to preempt the Company from properly and fairly managing this process. Mr. Simons public conduct has been severely detrimental to the Company and, the Company believes, has diminished the value of the Company, now and for the future. There was simply no need, and it was not in the interest of any officer, director or shareholder of the Company, for Mr. Simons to reach out to governmental authorities to attempt to involve them in an internal governance process that was already underway, as Mr. Simons had requested, and that is based upon what even Mr. Simons has admitted are unverified, incomplete facts and suppositions. Similarly, it was reckless and damaging for Mr. Simons to take it upon himself to communicate directly with all of the shareholders of the Company as well as several non-shareholders. He had no authority to do that, and his communication was an unjustified and public disparagement of the Company and its senior management.

We believe that Mr. Simons' conduct has been irresponsible and flagrantly violative of his fiduciary obligations. He seems to be motivated by spite or other petty issues, and he has lost sight of his broader and more important corporate responsibilities. We insist that he cease and desist from any further such conduct. There is a process underway, as Mr. Simons requested, and the Company demands that he respect that process now that it has begun. If he has any further questions or sees the need for any further action, we must insist that before taking other steps he first give the Company a reasonable opportunity to address the issues he may feel the need to raise. That way, the Company and shareholder value will not be further unnecessarily damaged. We would have thought that would be apparent to a person of Mr. Simons' experience. The Company and its management reserve all of their rights against Mr. Simons.

Sincerely,

DANIEL P. SHAPIRO
Partner
Katten Muchin Rosenman LLP
525 W. Monroe Street / Chicago, IL 60661-3693
p / (312) 902-5622 f / [redacted]8 m / (312) 330-5402
daniel.shapiro@kattenlaw.com / www.kattenlaw.com

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

PAUL SIMONS, an Individual,	)	
Plaintiff,	)	
vs.	)	No. 14 C 309
DITTO TRADE, INC., an Illinois	)	
Corporation, DITTO HOLDINGS,	)	
INC., a Delaware Corporation,	)	
and JOSEPH FOX, an Individual,	)	
Defendants.	)	

The deposition of PAUL MICHAEL SIMONS, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, at 111 South Wacker Drive, Suite 4100, Chicago, Illinois, on December 16, 2015, at the hour of 9:23 a.m.

Reporter: Kim Bures, CSR, RDR, CRR, CBC, CCP.
Illinois CSR License No.: 084-003292.

APPEARANCES:

LOCKE LORD LLP, by:
MR. W. ALLEN WOOLLEY,
111 South Wacker Drive,
Chicago, Illinois 60606,
(312) 201-2676,
allen.woolley@lockelord.com,
representing the plaintiff;

STANG LAW FIRM, by:
MR. MARK A. STANG,
[redacted]
Highland Park, Illinois [redacted]
(847) 432-2073,
mstang@stang-law.com,
representing the defendants.

ALSO PRESENT:

MR. JOSEPH FOX,
MR. D. JONATHAN ROSENBERG, and
MR. STUART A. COHN.

* * * * *

sir, because you are wasting time.

A. What did I mean by asking reasonable and obvious questions in trying to do the right thing?

Q. No. I didn't ask you that.

A. Oh, what did you ask me?

Q. I asked you what were the reasonable and obvious questions to which you're referring there.

A. What I was referring to was my raising of questions and concerns to the board and to the SEC.

Q. And you got your answer from the SEC where they never made any findings that Joe Fox had engaged in fraud or misappropriation of funds, didn't you?

MR. WOOLLEY: Object to the form.

THE WITNESS: What is your question?

MR. STANG: Read it back to him please.

THE WITNESS: You know what? No. I'm going to answer it. Every question you asked me --

BY MR. STANG:

Q. I said read it back to you.

A. I'm going to answer it anyway.

Q. Sir --

A. I'm going to answer it anyway.

MR. STANG: He's having a breakdown.

THE WITNESS: Every question you asked -- no, I'm not. Every question you asked me --

BY MR. STANG:

Q. I'm happy for her to read it back to you.

A. -- relates to fraud and misappropriation of funds. I never made allegations of fraud and misappropriation of funds, and I did not make reports to the SEC about fraud and misappropriation of funds. I raised concerns over violations of securities laws, okay? The SEC determines that, not me.

Q. We'll move on. Showing you what's been marked as Ditto Exhibit 63 --

A. When I raise my voice, you'll know it. This is 63? Yeah.

MR. STANG: Did you get that on the record, what he just said? Thank you.

BY MR. STANG:

Q. Is this an e-mail that --

MR. WOOLLEY: Did you get Mr. Stang's comment about, did you get that on the record?

MR. STANG: We're going to have an endless series of did-you-get-it-on-the-record comments?

MR. WOOLLEY: We've got a whole circle going

Jeremy Mann
To: Paul M. Simons
RE: RE: RE:

September 8, 2013 at 6:51 PM

He called me, I didn't answer. He called Adam, he didn't answer. Then he called Brian, told him he was firing you. Brian called Adam, then Adam told me.

from: Paul M. Simons [mailto:psi65@me.com]
Sent: Sunday, September 08, 2013 5:49 PM
To; Jeremy Mann
Subject: Re: RE: RE:

Cool- what did he say and to whom did he say it - any reasons, etc - and does he know i am in chicag - can only email rght niw

Paul M. Simons

psi65@me.com

On Sep 8, 2013, at 6:47 PM, Jeremy Mann [redacted] wrote:

> Ok. Joe is firing you Tuesday.
>
> from: Paul M.Simons[mailto:psi65@me.com
> Sent: Sunday, September 08, 2013 5:46 PM
> To: Jeremy Mann
> Subject: Re: RE;
>
> Do not mention t am coming to Chicago pls - on plane now
>
> Paul M. Simons
>
> psi65@me.com
> Work (312) 263-5400
> Cell [redacted]
>
> On Sep 8, 2013, at 6:44 PM, Jeremy Mann [redacted] wrote;
>
> **Paul,**
>
> **Call me or Adam ASAP.**

EXHIBIT
Simons
6
tabbies

DITTO TRADE

Joe Fox <jfox@sovestech.com>

Fwd: Loan Agreement

1 message

Joseph Fox <jfox@dittoholdings.com> Mon, May 6, 2013 at 8:15 AM
To: "<jmann@dittoholdings.com>" <jmann@dittoholdings.com>

Jer,

Please wire Clayton $15k right away from the US Bank account.

Thanks,

Joseph J. Fox
Chief Executive Officer

Ditto Holdings, Inc.
www.DittoTrade.com

Begin forwarded message:

> **From:** Clayton Cohn <ccohn@marketaction.com>
> **Date:** May 6, 2013, 6:03:10 AM PDT
> **To:** Joseph Fox <jfox@dittoholdings.com>
> **Subject: Re: Loan Agreement**
>
> Thanks again, please see attached.
>
> On Sun, May 5, 2013 at 10:06 PM, Joseph Fox <jfox@dittoholdings.com> wrote:
>
> Clayton,
>
> I have attached the Loan Agreement for the $15,000.
>
> It covers what we discussed.
>
> Send me the signed agreement and your wiring instructions.
>
> Regards,
>
> Joseph J. Fox
>
> Chief Executive Officer

633 West Fifth Street

Suite #1180

Los Angeles, CA 90071

(213) 489-1601 phone

www.DittoTrade.com

--

Best Regards,

@claytoncohn
SearchMe ...

Marketaction, Inc. | 858 W. Armitage Ave. | #133 | Chicago, IL 60614 | 877.MKT.ACTN (877.658.2286) | Fax: 312.873.4609

4 attachments

image001.jpg
3K

sigimg1
25K

Clayton A. Cohn
Chairman · President · CEO
Marketaction.com
847.962.6387
ccohn@marketaction.com

15K AGREEMENT.pdf
897K

Wiring Instructions.pdf
48K

EXHIBIT 14

Ditto Trade

From: Ilene Mann [redacted]>
Sent: Tuesday, November 11, 2014 2:11 PM
To: Forkner, Jedediah B.
Subject: Ditto Holdings
Attachments: Ditto Holdings stock.docx; Rights Offering.docx

Dear Mr. Forkner

I'm writing to you for some help and some answers. I am a shareholder of Ditto Holdings and I know that the SEC has been doing an investigation of the illegal and unethical transactions that Mr. Joe Fox, CEO, has committed and is continuing to commit. We feel that he is no different than Bernie Madoff.... just on a smaller scale.

At the Ditto Holding's annual shareholders meeting that took place via GoToMeeting.com (where no shareholder was allowed to physically appear) on Wednesday, August 14 at 6:00 P.M. CDT, the exact words used by Joe Fox were: "their "internal investigation" showed no wrong doings on their part..(which we know for a fact is false and was performed by a law firm (not a CPA firm) that was hired by John Rosenberg, (Ditto's VP -Joe's best friend). Ditto's outside attorney firm was Katten Muchen (who has since dropped them) and the litigator was Dan Shapiro. Dan Shapiro used to be a partner at Goldberg & Kohn, which was the firm that did the so called "internal investigation". Needless to say this investigation was bogus from day one.) .."and that the "regulatory inquiry" had not yet been concluded, however we expect that we will be arriving at a satisfactory resolution in a couple of weeks." Mr. Fox has not reported any outcome of the "regulatory inquiry" to the shareholders, however, he has mentioned to some people that he "got his hand slapped" for his illegal, unethical stealing of shareholders money.

- Attached is the "Rights Offering" announced by Mr. Fox that we not only object to, but we feel that by Joseph Fox and Ditto Holdings going forward with the "Rights Offering, breached their fiduciary duties to shareholders. We feel that the Rights Offering is an improper scheme to coerce additional capital contributions from existing shareholders. Under this scheme, unless shareholders agree to contribute additional capital, the economic value represented by our current holdings will be expropriated by, and redistributed to, the shareholders including Mr. Fox who agree to participate in the Rights Offering.

Th The Rights Offering not only dilutes the ownership and voting rights of current shareholders through the issuance and sale of a new class of stock at fair value, but those shareholders who concede to Mr. Fox's demands and "elect" to participate in the Rights Offering will receive vastly discounted special shares, along with ownership and voting rights that are grossly disproportionate to their economic contribution. The penalty for declining to participate is that a shareholder's current economic share of the company, along with his voting rights, will be redistributed among the participating shareholders.

Accordingly, the entire Rights Offering represents a scheme to compel existing shareholders to contribute additional capital (whether they want to or not), on penalty of seeing their previous economic contributions transferred to the participating shareholders.

Also attached is the recent email we just received indicating that our shares are now diluted, claiming this was allowed by a majority vote. The majority vote is Joe Fox, his director friends and all of his family. He did receive some "extortion" money from some of the other shareholders who were afraid of losing their shares with his threats. No one I know had a vote!

Mr. Fox and the directors who approved this scheme are breaching their fiduciary duties to all of its shareholders. We have refused to succumb to their "extortion" to force us to contribute additional capital.

We are hoping that the SEC can take action against Mr. Fox, Ditto Holdings, and all others who have chosen to disregard their fiduciary duties.

Joe Fox has been extremely manipulating with his lies, deceit and false hopes to all of us investors. As of July 29, 2013, Joe announced they raised over $10 million and were offering another $3 million to be raised. Ditto has raised over $12 million in 3 years and who knows how much he just extorted out of some of the shareholders.

We felt Ditto Trade was a good business concept that we all believed to have great potential. Unfortunately, we believe Joe Fox has mostly used this as his personal bank account, living "high on the hog", and has drained the money and success of DittoTrade.

Mr. Forkner, can you please let us know if the investigation is continuing and what can be done about this so called "Rights Offering".

Thank you in advance.

Ilene & Robert Mann

702-869-8959

EXHIBIT 15

DITTO
HOLDINGS, INC.

March 31, 2014

Mr. Jeremy M. Mann
[redacted]

Re: Accounting Matters

Dear Mr. Mann:

We write to make you aware of the following circumstances resulting from an internal audit of certain Ditto Holdings ("Company") books and records:

(1) The Company has uncovered $29,992.51 in unauthorized payments made to you or your family and expenses taken for your benefit. This amount includes the unauthorized check written to Robert Mann for $1,100, as well as the fees you caused the Company to pay an outside CPA for preparing your and Robert's personal tax returns. The total also includes the amount of $12,911.50 that you caused the outside CPA to erroneously report to the IRS that the Company had withheld on your behalf as income and payroll taxes.

The items listed on the attached **Schedule I** are unambiguously personal in nature and were taken by you for your benefit at a time when you had control over the company credit cards and bank accounts that were used.

The Company hereby demands immediate repayment of the $29,992.51 within 14 days from the date of this letter.

For your information, the Company is not waiving any further or additional remedies with regard to these unauthorized payments.

(2) Accompanying this letter is **Schedule II** indicating advances made to you in 2013 for a total of $21,000.00 which have not been and will not be converted to compensation.

The Company hereby demands immediate repayment of the $21,000.00 within 14 days from the date of this letter.

(3) Accompanying this letter is **Schedule III** indicating taxable non-salary benefits to you of **$25,363.11** for the year 2013, **$34,720.11** for the year 2012 and **$9,650.06** for the year 2011. The IRS Form 1099 for 2013 has been filed with the IRS, a copy of which is enclosed. The Form 1099's for 2011 and 2012 will be filed with the IRS and will be forthcoming.

(4) Accompanying this letter is **Schedule IV** indicating payments made by you to your personal credit cards using Company funds for a total of **$24,452.24**. These charges are not added to the taxable non-salary benefits mentioned above. If you believe any of these charges that were paid with Company funds were proper and authorized business expenses, kindly forward substantiating documentation to my attention within the next 10 business days. All charges that are not proper, authorized business expenses will be reported to the IRS on a corrected 1099.

Sincerely,

Stuart Cohn
EVP/General Counsel

DITTO TRADE

Joe Fox <jfox@sovestech.com>

Accounting Matters

1 message

Stu Cohn <scohn@dittoholdings.com> Mon, Mar 31, 2014 at 8:49 AM
To [redacted]

Please see the attached.

6 attachments

- **Letter Regarding Accounting Matters March 31 2014.pdf** 230K
- **Unauthorized Personal Transactions - Jeremy Mann (Schedule I).pdf** 35K
- **Jeremy Mann - Advances (Schedule II).pdf** 24K
- **Taxable Employee Benefits - Jeremy Mann 2013 (Schedule III).pdf** 38K
- **Jeremy_M_Mann_1099-MISC.pdf** 27K
- **Jeremy Mann Personal Credit Cards - TBD (Schedule IV).pdf** 29K

Ditto Holdings
Transaction Report

January - December 2013

Date	Transaction Type	Num	Name	Memo/Description	Account	Split	Amount	Balance
Advances - Jeremy Mann								
01/08/2013	Check		Jeremy Mann		Advances - Jeremy Mann	US Bank Checking	11,000.00	11,000.00
01/31/2013	Check	1366	Jeremy Mann		Advances - Jeremy Mann	US Bank Checking	5,000.00	16,000.00
03/01/2013	Check		Jeremy Mann		Advances - Jeremy Mann	US Bank Checking	5,000.00	21,000.00
Total for Advances - Jeremy Mann							**$21,000.00**	
TOTAL							**$21,000.00**	

Friday, Mar 21, 2014 12:47:35 PM PDT GMT-7 - Accrual Basis

Jeremy Mann - Person Credit Cards - TBD

Date	Name	Amount
03/08/2011	HSBC	25.00
12/02/2011	Barclaycard U	184.36
12/27/2011	Barclaycard U	90.00
12/27/2011	Barclaycard U	100.00
01/12/2012	Barclaycard U	53.06
01/12/2012	Barclaycard U	150.00
02/29/2012	Barclaycard U	100.00
02/29/2012	Barclaycard U	200.00
02/29/2012	Barclaycard U	100.00
03/27/2012	Barclaycard U	100.00
03/27/2012	Barclaycard U	250.00
03/27/2012	Barclaycard U	250.00
04/19/2012	Barclaycard U	140.62
04/19/2012	Barclaycard U	175.00
05/14/2012	Barclaycard U	87.37
05/14/2012	Barclaycard U	154.27
06/07/2012	Barclaycard U	45.00
06/07/2012	Barclaycard U	75.00
06/18/2012	Barclaycard U	55.00
06/18/2012	Barclaycard U	360.95
06/20/2012	HSBC	118.56
06/27/2012	HSBC	134.07
07/10/2012	Barclaycard U	184.72
07/10/2012	Barclaycard U	582.05
07/17/2012	Barclaycard U	100.00
07/17/2012	Barclaycard U	103.05
08/21/2012	Barclaycard U	36.26
08/21/2012	Barclaycard U	100.00
08/21/2012	HSBC	50.00
08/31/2012	Barclaycard U	361.82
09/05/2012	Barclaycard U	298.32
09/10/2012	Barclaycard U	115.45
09/12/2012	Barclaycard U	250.00
09/13/2012	Barclaycard U	250.00
09/13/2012	Barclaycard U	400.00
09/17/2012	HSBC	250.00
09/24/2012	Barclaycard U	152.95
09/27/2012	Barclaycard U	500.00
09/27/2012	Barclaycard U	500.00
10/02/2012	Barclaycard U	500.00
10/09/2012	Barclaycard U	500.00
10/11/2012	Barclaycard U	25.26
10/25/2012	Barclaycard U	113.87
10/25/2012	Barclaycard U	250.00
10/26/2012	Barclaycard U	15.59
10/29/2012	Barclaycard U	245.08
10/30/2012	Barclaycard U	250.00

11/09/2012	Barclaycard U	73.33
11/09/2012	Barclaycard U	96.60
11/14/2012	Barclaycard U	100.00
11/14/2012	Barclaycard U	100.00
11/14/2012	Barclaycard U	94.00
11/14/2012	Barclaycard U	94.00
11/14/2012	Barclaycard U	200.00
11/14/2012	Barclaycard U	200.00
12/16/2012	HSBC	384.42
12/17/2012	Barclaycard	411.57
12/17/2012	HSBC	658.96
12/18/2012	Barclaycard	404.15
12/18/2012	Barclaycard	968.00
12/20/2012	Barclaycard	5,237.19
12/24/2012	Barclaycard	200.00
12/24/2012	Barclaycard	150.00
12/24/2012	Barclaycard	150.00
12/28/2012	HSBC	658.96
12/28/2012	HSBC	384.42
01/09/2013	Barclaycard U	416.85
01/16/2013	Barclaycard U	5.72
01/16/2013	Barclaycard U	35.25
02/04/2013	Barclaycard U	105.00
02/04/2013	Barclaycard U	185.26
02/04/2013	Barclaycard U	400.00
02/20/2013	Barclaycard U	244.39
03/05/2013	Barclaycard U	86.86
03/27/2013	Barclaycard U	35.25
04/16/2013	Barclaycard U	35.25
05/14/2013	Barclaycard U	318.01
05/21/2013	Barclaycard U	133.52
06/13/2013	Barclaycard U	436.11
06/19/2013	Barclaycard U	430.48
06/20/2013	Barclaycard U	186.45
06/28/2013	Barclaycard U	299.34
07/03/2013	Barclaycard U	389.51
07/17/2013	Barclaycard U	314.59
08/12/2013	Barclaycard U	25.26
08/12/2013	Barclaycard U	695.60
08/13/2013	Barclaycard U	25.26
		$24,452.24

Payer's Name:
Ditto Holdings, Inc.
633 W. 5th Street, #1180
Los Angeles, CA 90071

CORRECTED

2013 Form 1099-MISC Miscellaneous Income

OMB No. 1545-0115

Copy B For Recipient

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

For questions about this form, contact Ditto Holdings, Inc. at 213-489-1601

Recipient's Name:
JEREMY M. MANN
[redacted]
NORTHFIELD, IL [redacted]

Payer's federal identification number: [redacted]	**Recipient's identification number:** [redacted]

Box 3: Other income
$25,363.11

Instructions for Recipient - 1099-MISC

Recipient's identification number. For your protection, this form may show only the last four digits of your social security number (SSN), individual taxpayer identification number (ITIN), or adoption taxpayer identification number (ATIN). However, the issuer has reported your complete identification number to the IRS and, where applicable, to state and/or local governments.

Account number. May show an account or other unique number the payer assigned to distinguish your account.

Amounts shown may be subject to self-employment (SE) tax. If your net income from self-employment is $400 or more, you must file a return and compute your SE tax on Schedule SE (Form 1040). See Pub. 334 for more information. If no income or social security and Medicare taxes were withheld and you are still receiving these payments, see Form 1040-ES (or Form 1040-ES(NR)). Individuals must report these amounts as explained in the box 7 instructions on this page. Corporations, fiduciaries, or partnerships must report the amounts on the proper line of their tax returns.

Form 1099-MISC incorrect? If this form is incorrect or has been issued in error, contact the payer. If you cannot get this form corrected, attach an explanation to your tax return and report your income correctly.

Box 1. Report rents from real estate on Schedule E (Form 1040). However, report rents on Schedule C (Form 1040) if you provided significant services to the tenant, sold real estate as a business, or rented personal property as a business.

Box 2. Report royalties from oil, gas, or mineral properties, copyrights, and patents on Schedule E (Form 1040). However, report payments for a working interest as explained in the box 7 instructions. For royalties on timber, coal, and iron ore, see Pub. 544.

Box 3. Generally, report this amount on the "Other income" line of Form 1040 (or Form 1040NR) and identify the payment. The amount shown may be payments received as beneficiary of a deceased employee, prizes, awards, taxable damages, Indian gaming profits, or other taxable income. See Pub. 525. If it is trade or business income, report this amount on Form 1040, Sched. C or F.

Box 4. Shows backup withholding or withholding on Indian gaming profits. Generally, a payer must backup withhold if you did not furnish your taxpayer identification number. See Form W-9 and Pub. 505 for more information. Report this amount on your income tax return as tax withheld.

Box 5. An amount in this box means the fishing boat operator considers you self-employed. Report this amount on Schedule C (Form 1040). See Pub. 334.

Box 6. For individuals, report on Schedule C (Form 1040).

Box 7. Shows nonemployee compensation. If you are in the trade or business of catching fish, box 7 may show cash you received for the sale of fish. If the amount in this box is SE income, report it on Schedule C or F (Form 1040), and complete Schedule SE (Form 1040). You received this form instead of Form W-2 because the payer did not consider you an employee and did not withhold income tax or social security and Medicare tax. If you believe you are an employee and cannot get the payer to correct this form, report the amount from box 7 on Form 1040, line 7 (or Form 1040NR, line 8). You must also complete Form 8919 and attach it to your return. If you are not an employee but the amount in this box is not SE income (for example, it is income from a sporadic activity or a hobby), report it on Form 1040, line 21 (or Form 1040NR, line 21).

Box 8. Shows substitute payments in lieu of dividends or tax-exempt interest received by your broker on your behalf as a result of a loan of your securities. Report on the "Other income" line of Form 1040 (or Form 1040NR).

Box 9. If checked, $5,000 or more of sales of consumer products was paid to you on a buy-sell, deposit-commission, or other basis. A dollar amount does not have to be shown. Generally, report any income from your sale of these products on Schedule C (Form 1040).

Box 10. Report this amount on Schedule F (Form 1040).

Box 11. Shows the foreign tax that you may be able to claim as a deduction or credit on Form 1040. See Form 1040 instructions.

Box 12. Shows the country or U.S. possession to which the foreign tax was paid.

Box 13. Shows your total compensation of excess golden parachute payments subject to a 20% excise tax. See the Form 1040 (or Form 1040NR) instructions for where to report.

Box 14. Gross proceeds paid to attorney in connection with legal services. Report only taxable part as income on your return.

Box 15a. May show current year deferrals as a nonemployee under a nonqualified deferred compensation (NQDC) plan that is subject to the requirements of section 409A, plus any earnings on current and prior year deferrals.

Box 15b. Shows income as a nonemployee under an NQDC plan that does not meet the requirements of section 409A. This amount is also included in box 7 as nonemployee compensation. Any amount included in box 15a that is currently taxable is also included in this box. This income is also subject to a substantial additional tax to be reported on Form 1040 (or Form 1040NR). See "Total Tax" in the Form 1040 (or Form 1040NR) instructions.

Boxes 16–18. Shows state or local income tax withheld from the payments. **Future developments.** For the latest info about developments related to Form 1099-MISC, such as legislation enacted after they were published, go to www.irs.gov/form1099misc.

Taxable Employee Benefits - Jeremy Mann 2013

Date	Name	Split	Amount
01/02/2013	Carmines	Jeremy (2711)	139.04
01/04/2013	Filini Bar & Restaurant	Jeremy (2711)	120.67
01/14/2013	Sonic	Jeremy (2711)	5.37
01/14/2013	Menards Long Grove	Jeremy (2711)	8.04
01/14/2013	Lucky Strike Bowling & Lounge	Jeremy (2711)	16.00
01/14/2013	Marianos	US Bank Checking	120.52
01/18/2013	Wildfire Glenview	Jeremy (2711)	35.35
01/18/2013	Wildfire Glenview	Jeremy (2711)	21.32
01/18/2013	Regal Cinemas - Glenview	Jeremy (2711)	9.25
01/18/2013	Aqua	US Bank Checking	1,850.00
02/04/2013	Brauer House (Lombard)	Jeremy (2711)	93.45
02/07/2013	Aqua	US Bank Checking	1,850.00
02/15/2013	Marianos Fr	Jeremy (2711)	75.00
03/07/2013	Aqua	US Bank Checking	1,842.00
04/01/2013	Aqua Cleaners	Jeremy (2711)	91.65
04/02/2013	Grappa Italian Res (Park City UT)	Jeremy (2711)	168.55
04/05/2013	Audi	US Bank Checking	780.88
04/08/2013	Cantina Laredo	Jeremy (2711)	108.31
04/08/2013	Audi	US Bank Checking	350.00
04/12/2013	Marianos Fr	AMEX	201.09
04/12/2013	Aqua	US Bank Checking	1,842.00
04/23/2013	BJS Restaurant Las Vegas	Jeremy (2711)	52.21
04/30/2013	Regal Cinemas - Linconshire	Jeremy (2711)	15.50
05/06/2013	Potters Place - Naperville	Jeremy (2711)	34.73
05/06/2013	Cortlands Garage Bar	Jeremy (2711)	14.00
05/06/2013	Potters Place - Naperville	Jeremy (2711)	38.76
05/06/2013	Napervill	Jeremy (2711)	70.30
05/08/2013	Aqua	US Bank Checking	1,850.00
05/16/2013	Chicago	Jeremy (2711)	65.54
05/20/2013	Union Sushi Barbeque	Jeremy (2711)	48.98
05/28/2013	Bigg's	Jeremy (2711)	43.50
05/28/2013	Boss Bar	Jeremy (2711)	43.50
05/28/2013	Marianos Fresh	Jeremy (2711)	120.23
05/28/2013	Timothy's O'Tooles Pub	Jeremy (2711)	103.48
05/28/2013	Marianos Fresh	Jeremy (2711)	72.66
05/28/2013	Lucky Strike Bowling & Lounge	Jeremy (2711)	50.00
05/28/2013	Public House Pub	Jeremy (2711)	45.00
05/29/2013	Filini Bar & Restaurant	Jeremy (2711)	55.75
05/30/2013	Big Bowl - Chicago	Jeremy (2711)	135.03
05/31/2013	Cafecito	Jeremy (2711)	84.86
06/05/2013	Audi	US Bank Checking	780.88
06/06/2013	Aqua	US Bank Checking	1,842.00
06/10/2013	Blue Line	Jeremy (2711)	38.60
06/10/2013	Sai Cafe	Jeremy (2711)	158.20
06/10/2013	Groupon	Jeremy (2711)	250.00
06/13/2013	Marianos	Jeremy (2711)	34.27
06/14/2013	Quartino's Rest & Wine Bar	Jeremy (2711)	92.05

06/17/2013	Binnys Beverage Depo	Jeremy (2711)	16.78
06/17/2013	Feature Foods Com	Jeremy (2711)	131.88
06/17/2013	Binnys Beverage Depo	Jeremy (2711)	159.37
06/18/2013	Aqua	Jeremy (2711)	43.00
06/20/2013	Gators Wing Shack - Palatine	Jeremy (2711)	125.69
06/24/2013	Sunset Foods Long Grove	Jeremy (2711)	37.80
06/26/2013	Barn and Company Public House	Accounts Payable (A/P)	51.32
06/26/2013	Barn and Company Public House	Accounts Payable (A/P)	38.76
06/26/2013	Marianos Fresh	Jeremy (2711)	196.08
06/27/2013	Shambles Bar	Jeremy (2711)	161.42
07/05/2013	Yens	Jeremy (2711)	33.15
07/05/2013	Marianos Fresh	Jeremy (2711)	43.71
07/05/2013	Aqua	Jeremy (2711)	27.00
07/05/2013	Marianos Fresh	Jeremy (2711)	156.89
07/05/2013	Iii Forks	Jeremy (2711)	202.05
07/08/2013	Yard House Bar & Grill - Glenview	Jeremy (2711)	176.00
07/08/2013	Roscinni's - Palatine	Jeremy (2711)	213.40
07/08/2013	AUDI FINCL	US Bank Checking	780.88
07/15/2013	Aqua	US Bank Checking	1,846.00
07/18/2013	Stout Barrel House	Jeremy (2711)	120.00
07/19/2013	Showplace Thea	Jeremy (2711)	15.75
07/19/2013	Rockit Bar Grill	Jeremy (2711)	72.78
07/22/2013	Marianos Fresh	Jeremy (2711)	86.53
07/23/2013	Wildfire Lincolnshire Sh	Jeremy (2711)	79.28
07/29/2013	Fifty 50 Rest & Bar - Chicago	Jeremy (2711)	44.00
07/29/2013	Rivers Rittergut Wine Bar	Jeremy (2711)	153.10
07/29/2013	Grandpa's Place Bar & Grill - Glenview	Jeremy (2711)	51.87
07/30/2013	Village Bar Grill Buffalo Grove	Jeremy (2711)	36.53
07/31/2013	Marianos Fresh	Jeremy (2711)	204.95
08/02/2013	Sunset Foods Long Grove	Jeremy (2711)	23.78
08/05/2013	Fresh Mkt Kldr	Jeremy (2711)	108.25
08/05/2013	Aqua	US Bank Checking	1,846.00
08/05/2013	Audi	US Bank Checking	780.88
08/06/2013	Slurping Turtle	Jeremy (2711)	90.15
08/19/2013	Aramark Concessions	Jeremy (2711)	33.75
08/21/2013	State Street Barbers	Jeremy (2711)	27.00
08/26/2013	Harry Caray's Tavern	Jeremy (2711)	96.11
08/26/2013	Sai Cafe	Jeremy (2711)	274.92
09/03/2013	Aqua Cleaners	Jeremy (2711)	76.90
09/05/2013	AUDI FINCL	US Bank Checking	780.88
09/12/2013	Homejoy	Jeremy (2711)	50.00
			$25,363.11

Unauthorized Personal Transactions - Jeremy Mann (Schedule I)

Date	Transaction Type	Name	Memo/Description	Amount
01/02/2013	Credit Card Expense	Nordstrom		38.29
01/14/2013	Credit Card Expense	TJ Maxx		21.79
01/14/2013	Credit Card Expense	Gunzo's Sports		14.72
02/04/2013	Credit Card Expense	The Glacier Ice		275.00
03/04/2013	Check	MONTEREY PARK GOMONTEREY PARCA		123.72
03/29/2013	Credit Card Expense	Sq Erica Brewer		165.00
04/16/2013	Credit Card Expense	Stubhub Inc Stubhub		1,022.60
04/29/2013	Credit Card Expense	Express Clothes Store - Santa Monica		114.81
05/02/2013	Credit Card Expense	Stubhub Inc		345.00
05/03/2013	Credit Card Expense	United Center Concessi		20.00
05/03/2013	Credit Card Expense	Erica Brewer		40.00
05/03/2013	Credit Card Expense	United Center Concessi		51.75
05/03/2013	Credit Card Expense	Nabsportsll		1,700.00
05/06/2013	Credit Card Expense	Wal-Mart Oswego		57.16
05/06/2013	Credit Card Expense	United Center Concessi		18.00
05/06/2013	Credit Card Expense	United Center Concessi		17.00
05/06/2013	Credit Card Expense	United Center Concessi		16.00
05/06/2013	Credit Card Expense	Stubhub Inc		532.00
05/13/2013	Credit Card Expense	Walgreens - Las Vegas		15.16
05/13/2013	Credit Card Expense	Mimi's Cafe - Las Vegas		29.71
05/13/2013	Credit Card Expense	Walgreens - Las Vegas		34.51
05/14/2013	Credit Card Expense	The Egg Works - Las Vegas		38.27
05/14/2013	Credit Card Expense	Sedona - Las Vegas		166.80
05/15/2013	Credit Card Expense	Johnnys Ice House		205.00
05/20/2013	Credit Card Expense	Johnnys Ice House		31.00
05/28/2013	Credit Card Expense	Diamond.com	Diamond education site	15.53
05/28/2013	Credit Card Expense	Nordstrom Rack		213.78
06/03/2013	Credit Card Expense	Red Robin - Oswego		65.09
06/03/2013	Credit Card Expense	Wal-Mart Oswego		138.77
06/10/2013	Credit Card Expense	Macy's		252.90
06/12/2013	Credit Card Expense	Michaels Hobbies & Crafts		30.03
06/13/2013	Credit Card Expense	Dick's Sporting	Sports Jersey purchased by Jeremy for his mother	172.96
06/17/2013	Credit Card Expense	Nordstrom Rack		149.61
06/20/2013	Credit Card Expense	Sapphirelanedotcom	Engagement Ring Box	54.67
06/24/2013	Credit Card Expense	Joe Demarco		160.00
07/01/2013	Credit Card Expense	Shop Nhl Com		185.66
07/08/2013	Credit Card Expense	River N Massage		79.00
07/11/2013	Credit Card Expense	Metro Entertainment		97.10
07/12/2013	Credit Card Expense	Petco		41.48
07/22/2013	Credit Card Expense	Stubhub Inc		579.15

07/29/2013	Credit Card Expense	Event Ticket Insurance		14.00
07/29/2013	Credit Card Expense	Shop Nhl Com		141.99
07/29/2013	Credit Card Expense	Ticketmaster		383.97
08/01/2013	Journal Entry		2012 Medicare Tax Withholding (created by Jeremy without authority)	638.00
08/01/2013	Journal Entry		2011 Medicare Tax Withholding (created by Jeremy without authority)	507.50
08/01/2013	Journal Entry		2011 Social Security Tax Withholding (created by Jeremy without authority)	1,470.00
08/01/2013	Journal Entry		2012 Federal Income Tax Withholding (created by Jeremy without authority)	4,474.00
08/01/2013	Journal Entry		2011 Federal Income Tax Withholding (created by Jeremy without authority)	3,974.00
08/01/2013	Journal Entry		2012 Social Security Tax Withholding (created by Jeremy without authority)	1,848.00
08/06/2013	Credit Card Expense	Bridgeview Bank Mortgage		3.86
08/06/2013	Check	JBS (outside accountant)	Personal tax preparation Jeremy and Robert	1,100.00
08/07/2013	Credit Card Expense	Bridgeview Bank Mortgage		382.14
08/07/2013	Credit Card Expense	Dick's Sporting		18.34
08/09/2013	Check	Robert Mann	Check was written to Jeremy's father Robert Mann	1,100.00
08/12/2013	Credit Card Credit	Walgreens - Las Vegas		(3.51)
08/12/2013	Credit Card Expense	Lavo Nightclub - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	287.14
08/12/2013	Credit Card Expense	Sedona - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	128.86
08/12/2013	Credit Card Expense	Presidential Limousine - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	101.00
08/12/2013	Credit Card Expense	Islands Restaurant - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	48.78
08/12/2013	Credit Card Expense	Walgreens - Las Vegas		17.56
08/12/2013	Credit Card Expense	Walgreens - Las Vegas		16.71
08/12/2013	Credit Card Expense	Walgreens - Las Vegas		14.32
08/13/2013	Credit Card Expense	Amore Taste Of Chicago - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	23.51
08/13/2013	Credit Card Expense	Palazzo Resort Pool Srvc - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	71.46
08/14/2013	Credit Card Expense	Mon Ami Gabi (Paris Casino) - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	11.73
08/14/2013	Credit Card Expense	Palazzo Resort Zebra Lounge - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	61.72
08/14/2013	Credit Card Expense	Mon Ami Gabi (Paris Casino) - Las Vegas	Jeremy left the LA office to go to Las Vegas for a week to "grieve" his dog	181.55
08/20/2013	Check	JBS (outside accountant)	Personal tax preparation Jeremy and Robert	950.00
08/23/2013	Credit Card Expense	Nab Sports		9.00
08/26/2013	Credit Card Expense	Hockeymonkey Com		214.98
09/13/2013	Check	Aqua	Check written on 9/15/13 - dated 9/4/13 to hide lack of authorization	1,846.00
09/13/2013	Check	Aqua	Check written on 9/15/13 - dated 9/4/13 to hide lack of authorization	1,846.00
10/07/2013	Check	AUDI FINCL		780.88

$29,992.51

EXHIBIT 16

AFFIDAVIT

I, Joshua B. Smith, am over the age of 21 and I state the following:

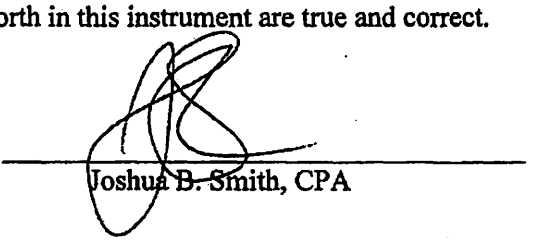
1. I am the proprietor of JBS Life Chartered, a certified public accounting firm.

2. On or about February 22, 2013 I was engaged by Ditto Holdings, Inc. (the Company) to perform certain specified accounting work for the Company.

3. I met at my office with Jeremy Mann on behalf of the Company on February 22, 2013. Thereafter all further communications between me and Mr. Mann took place by e-mail and telephone; none took place in person.

4. Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct.

Dated: December 5, 2013



Joshua B. Smith, CPA

Jeremy Mann

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Friday, February 22, 2013 6:53 AM
To: Joseph Fox
Subject: Re: Save these images separately as PDFs

Stu has all the docs for this. I forwarded it to him.

I'm walking into the accountants office now.

Sent from my iPhone

On Feb 22, 2013, at 8:48 AM, Joseph Fox <jfox@dittoholdings.com> wrote:

> <image.png>
>
>
> <image.png>
>
> Joseph J. Fox
> Chief Executive Officer
>
> Ditto Holdings, Inc.
> www.DittoTrade.com

Jeremy Mann

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Friday, March 1, 2013 7:32 AM
To: Jon Rosenberg
Subject: Late

Jon,

Let Ray know I'll be in shortly. I had to meet with our accountant this morning for a quick meeting.

Tell him that.

Sent from my iPhone

Jeremy Mann

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Thursday, March 7, 2013 6:24 AM
To: Jon Rosenberg
Subject: Late

Jon,

I have to run to our accountant's office. I should be in around 9:30-10.

Please let finra know.

Sent from my iPhone

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Thursday, April 04, 2013 6:29 AM
To: customerservice@dittoholdings.com; operations@dittoholdings.com; Joe Fox
Subject: Meeting

I'm about to go into a meeting with the accountant. I should be done around 10. Call if needed.

Sent from my iPhone

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Thursday, April 11, 2013 6:33 AM
To: customerservice@dittoholdings.com; operations@dittoholdings.com; Tech; psimons@dittoholdings.com; Joe Fox
Subject: Meeting

All,

I am about to walk into our accountant's office. Email or call if needed.

Jeremy Mann

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Wednesday, May 15, 2013 4:30 AM
To: Tech; operations@dittoholdings.com; customerservice@dittoholdings.com; psimons@dittoholdings.com
Subject: Meeting in AM

Guys, I have a meeting with our accountant at 9:30. I will probably be there for a couple hours. Call me if needed. Otherwise, I'll be in the office after.

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Wednesday, May 29, 2013 6:42 AM
To: operations@dittoholdings.com; customerservice@dittoholdings.com; psimons@dittoholdings.com; Joe Fox
Subject: Meeting

All,

I am walking into the accountant's office now. I will be here about an hour and then in the office. Call if needed.

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Tuesday, June 18, 2013 6:59 AM
To: Joe Fox; psimons@dittoholdings.com; customerservice@dittoholdings.com; operations@dittoholdings.com
Subject: Meeting.

All,

I am just getting to our accountants office. Should be a quick meeting. Call me if needed.

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Tuesday, July 16, 2013 6:56 AM
To: operations@dittoholdings.com; customerservice@dittoholdings.com; Joe Fox
Subject: Meeting

I'm walking into our accountants office now. I don't get good service but will have Internet. Email if needed.

Jeremy Mann

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Monday, July 29, 2013 5:49 AM
To: operations@dittoholdings.com; psimons@dittoholdings.com; compliance@dittoholdings.com

Guys,

I have a meeting within our accountant this morning. I will be in the office after. Email me if needed.

Joseph Fox

From: Jeremy Mann <jmann@dittoholdings.com>
Sent: Monday, August 05, 2013 6:59 AM
To: customerservice@dittoholdings.com; operations@dittoholdings.com; Joe Fox; psimons@dittoholdings.com
Subject: Meeting

All,

I am walking into our accountants office now for a meeting. Cell service is awful here, email is the best way to reach me.

Sent from my iPhone

EXHIBIT 17

Jeremy Mann
To: Paul M. Simons
RE: RE: RE:

September 8, 2013 at 6:51 PM

He called me, I didn't answer. He called Adam, he didn't answer. Then he called Brian, told him he was firing you. Brian called Adam, then Adam told me.

from: Paul M. Simons [mailto:psi65@me.com]
Sent: Sunday, September 08, 2013 5:49 PM
To: Jeremy Mann
Subject: Re: RE: RE:

Cool- what did he say and to whom did he say it - any reasons. etc - and does he know i am in chicag - can only email rght niw

Paul M. Simons

psi65@me.com

On Sep 8, 2013, at 6:47 PM, Jeremy Mann [redacted] wrote:

Ok. Joe is firing you Tuesday.

from: Paul M.Simons[mailto:psi65@me.com
Sent: Sunday, September 08, 2013 5:46 PM
To: **Jeremy Mann**
Subject: Re: RE:

Do not mention t am coming to Chicago pls - on plane now

Paul M. Simons

psi65@me.com
Work (312) 263-5400
Cell [redacted]

On Sep 8, 2013, at 6:44 PM, Jeremy Mann [redacted] wrote:

Paul,

Call me or Adam ASAP.

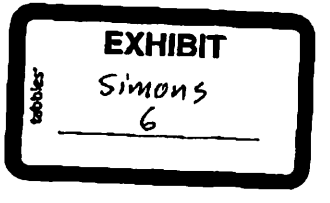


EXHIBIT 18

Background on Larry Wert

Wert previously invested approximately $400,000 in Iggys House, Inc., an online real estate company (that I founded) that filed an S-1 to go public in August 2007 (with E*TRADE as one of the underwriters on the cover). Unfortunately, we had to withdraw the S-1 in January 2008 because of market conditions. We ultimately had to shut down the company in July 2008. There was a total of $14 million of investor money lost. My brother and I put in the majority of the last few millions trying to keep the company alive after the IPO failed.

As an aside, in late 2008, Wert called me to tell me that a local stock broker named George Jonson, that we were both introduced to from the investment banker who was leading our IPO, had convinced him to put $100k in a bogus penny stock deal. Wert said he was a little mad at me as this fella claimed that I was Johnson's good friend and that I am recommending this deal. I told Wert he should have called me to confirm before he made the investment and that I would never invest in a penny stock deal myself. I also made it clear that I did not know George Johnson any better than him, as we were introduced to him at roughly the same time. He agreed that he was wrong to blame me and that he should have called me first.

One year later, Wert tells me that he and his family ultimately increased their investment with George Johnson to over $1 million (apparently all of the investment was lost). Wert at different times in the years to follow would imply that this was somehow my fault.

Because of Wert's level of commitment in the previous deal, in January 2009 we gave him 7% of the founder shares in SoVesTech. I also gave his brother 50,000 of my founder shares as a way to help him through his divorce and bankruptcy filing. Larry was appreciative of both gestures.

In November 2010, Wert purchased $100,000 worth of Company stock.

In June 2011, Wert purchased an additional $100,000 worth of Company stock.

In December 2011, Wert lent the company $150,000. We had a difficult time paying it back in the 6-month time-frame originally agreed upon.

However, in December 2012, we not only paid him back the $150K principle and $15k of interest, we paid him another $10k after he told me he paid that amount to a lawyer to go after us.

Over the next 8 months, I tried to rebuild our relationship.

However, as evidenced by an email chain from July 2013, Wert the egomaniac was quick to renew his hatred for me.

I was only in town for a short while [redacted] in Los Angeles). When I was in town I was being pulled from every direction. Everyone in the Chicago office needed me (we had 25 employees in Chicago).

Wert wanted me to come by his office to see him and I did not have the time. I asked him to come by my office if we were going to meet while I was in town for only 3 days. This did not sit well with Wert. I did not kiss his ring and when Paul Simons began his assault on me and the Company, Wert jumped on the opportunity to go after me.

Wert and Simons first communicated in September 2013.

On September 11, 2013, just a few hours after Simons sent out an email to all shareholders, Wert responded with the following email:

"***I understand and am happy you stood up. I do not know the details but I suspect you will have my full support. I have had to get legal counsel towards ditto as well. Please let me know if we can help. Thank you. Larry***"

A few days later on September 14, 2013, Wert emailed Simons the following: "***Yep...I am trying to apply some different pressure.***"

Wert's "***pressure***" went on unabated for over two years.

Wert made it very clear in late 2014 (to Richard K. our largest investor) that he would do all he could to hurt us by stopping us from selling to Yahoo! as his boss was on their board. (Our investment bankers at the time, Moelis & Co. had begun conversations with Yahoo! A few weeks earlier.) That was the end of our conversations with Yahoo!, as well as our relationship with Moelis.

On January 10, 2015, Wert sent Simons the following email:

"***I am sending another legal letter [to Ditto]... part will be formalizing complaint that spending $ on legal vs you, is not in Corp's best interest...***"

At the time of this email (and the letter we ultimately received from Wert's lawyer), the only money being spent on lawyers relating to Simons was in defense of Simons lawsuit against the Company and myself. So basically, Wert wanted us to not defend ourselves.

In October and November 2015, I heard from Marc Mandel (a former friend of the Company that Simons destroyed, who later began telling people that Simons was a great man) that Wert was working on a plan to have me and other management forced out of the Company.

I heard from other shareholders as well that Wert was doing his level best to sink the Company.

On November 6, 2015, SoVesTech's counsel emails Phil Reed (Wert's attorney) about the need for a litigation hold.

"***Mr. Wert must preserve any responsive emails regardless of whether they are on his personal computer or Tribune Company servers. At an appropriate juncture, we will be subpoenaing the Tribune Company for Mr. Wert's emails responsive to the foregoing request categories. We will***

be seeking emails and documents not only on the current Tribune Company server but also on back-up drives dating to the relevant time period."

On November 18, 2015, Wert through his lawyer, sent a 77-page document laced with an abundance of defamatory rhetoric to the Company's lawyer threatening that if I (and my family) did not immediately step down from the company Wert would share the 77-page document with all of the shareholders.

On November 24, 2015, SoVesTech's counsel forwards the November 6th email to Edward Lazarus (General Counsel for Tribune Media), letting him know that as of that date, the Company had not had a response from Wert's attorney. The email went on to express the Company's concern about Wert using his Tribune email account to email Company shareholders, as well as another demand for a litigation hold.

On December 1, 2015, Wert not only followed through on his threat to send the libelous 77-page document (along with a cover letter written by his lawyer for the shareholders) to the 200+ shareholders, he purposely did so from his Tribune email.

I have interlineated the first half of the 77 pages. I did this several months ago and I have not had the mental energy to complete it. Obviously I will when needed.

On December 6, 2015, Wert sent an email to all shareholders with a highly defamatory message from Paul Simons.

On December 8, 2015, after not having received a response from the November 24th email, SoVesTech's counsel sent another email to the Tribune GC Edward Lazarus informing him that Wert's use of Tribune Media email servers to send out his libelous emails has gone on unabated. Lazarus was told:

"***On behalf of SoVesTech, Ditto Trade, and Mr. Fox, I demand that Tribune Media cease and desist from publishing any further libels on its corporate email server, through Mr. Wert or any other user of the server.***"

On December 21, 2015, Wert sent another email, purporting to set the record straight, from his Tribune email. This latter email may well pad the cause of action against Wert.

On December 24, 2015, SoVesTech's counsel sent another email to the Tribune GC Edward Lazarus stating:

"***I have written you previously on this matter in my emails dated November 24, 2015 and December 8, 2015, embedded below. You have not shown the courtesy to respond in any way. Previously, I was authorized by my clients to present a demand that Tribune Media cease and desist from permitting Larry Wert to use the company's email servers to transmit Mr. Wert's false and defamatory statements to the shareholders of SoVesTech, Inc., formerly known as Ditto Holdings, Inc. Either you have failed to instruct Mr. Wert to cease and desist, or you have instructed him and he refuses to stop. Either way, Tribune Media Company evidently has***

decided to aid and abet Mr. Wert in his continuing libel against Mr. Fox and his companies."

The email went on to demand that the Tribune make a payment of $1.8 million for damages.

On December 25, 2015, the Tribune GC Edward Lazarus, finally responded to Company counsel:

"***Mr. Stang, I did not read either of your previous emails as requiring a response. I have instructed Mr. Wert to use his personal email for correspondence related to this extracurricular dispute. Tribune Media rejects your monetary demand. Sincerely yours, Eddie Lazarus.***"

EXHIBIT 19-21

From: Wert, Larry <Larry@Tribune.com>
Sent: Saturday, September 14, 2013 10:01 PM
To: COMCAST [redacted]t>
Subject: RE: CONFIDENTIAL

Yep... I am trying to apply some different pressure

From: COMCAST [redacted]
Sent: Friday, September 13, 2013 7:30 AM
To: Wert, Larry
Subject: Re: CONFIDENTIAL

You ill recieve an auto reply - same response no matte r what you ask - which is pretty telling

Paul M.

On Sep 12, 2013, at 7:53 AM, "Wert, Larry" <Larry@Tribune.com> wrote:

> Thanks Paul
>
> **From:** Paul M. Simons [redacted]
> **Sent:** Wednesday, September 11, 2013 11:21 PM
> **To:** Wert, Larry
> **Subject:** Re: CONFIDENTIAL
>
> Larry - confidentially, any reasonable shareholder might ask the following questions (in their own words of course) in response to joe's letter to shareholders, and of course the more the merrier
>
> - you reference "Mr. Simons assertions" - were they only his?
> - "not every hire turns out" seems like an odd explanation for what was described, as does the coincidental timing of "not every hire turns out" with Mr. Simons bringing forth of concerns to the board and
> - is there anything in SImons' letter to shareholders that is not true?
> - Pls provide a copy of the audited Ditto Trade financial statements and are they full audits
>
> Paul M. Simons
> psi65@me.com
>
> 914 733 2443
>
> On Sep 11, 2013, at 7:24 PM, "Wert, Larry" <Larry@Tribune.com> wrote:
>
> I understand and am happy you stood up. I do not know the details but I suspect you will

have my full support. I have had to get legal counsel towards ditto as well. Please let me know if we can help. Thank you. Larry

Sent from my iPad

On Sep 11, 2013, at 4:19 PM, "Paul M. Simons" [redacted] > wrote:

> Thanks Larry - I really appreciate your message and I look forward to speaking with you when appropriate. I do need to be cautious right now as i know you understand. I am hopeful that somehow leadership, integrity, and doing the right thing will carry the day, and any support from a constituency that feels the same way will be helpful. Ditto Trade has the potential be a really terrific company, which is what I came for. We will see where all this goes. Thank you for reaching out.
>
> Paul M. Simons
> psi65@me.com
>
> 914 733 2443
>
> On Sep 11, 2013, at 6:07 PM, "Wert, Larry" <Larry@Tribune.com> wrote:
>
> Thank you. Please let me know if you can talk.
>
> Sent from my iPad
>
> On Sep 11, 2013, at 3:31 PM, [redacted] " [redacted] > wrote:
>
> > Dear Shareholder,
> >
> > I feel it is my duty and obligation to the shareholders of Ditto Holdings, Inc, who elected me to the Board of Directors this past July, to make you aware of a series of events which transpired early this week.
> >
> > Recently I became aware of information and circumstances which raised serious questions and concerns regarding certain company expenditures and related transactions, certain transactions in company shares, and circumstances pertaining to financial governance generally. As an Officer and a Director of the company, I felt an obligation to the company, its shareholders, and employees to bring these concerns to the attention of the Board of Directors.

Monday morning I together with several other officerers of the company submitted a written, formal and detailed request (Board Action Demand Letter dated 9/9/2013) to the Board of Directors and General Counsel requesting a meeting of the Board to authorize an independent audit and investigation in order to determine whether or not this information evidenced any impropriety and/or required any remedy.

The first response I received was from one of my fellow board members accompanied by our general counsel asking me to vacate the premises.

The next morning I received notification via email from Joe Fox that I have been relieved of my role as CEO of Ditto Trade, placed on indefinite leave from Ditto Holdings, and no longer permitted access to company facilities. My email accounts and access have all been terminated, and I have received reports from my colleagues of disparaging and untrue explanations being offered as to the circumstances of my departure.

I am not at at liberty to share documents nor can I provide or discuss any further details, but I do believe that as shareholders you have a right to be aware of these circumstances generally. To be clear, I have not asserted, nor am I asserting through this notification, any allegations of conclusive wrongdoing; the facts and circumstances of which I became aware, with credible documentation, were of a nature serious enough to request an independent examination and presentation of findings.

Yours Truly,

Paul M. Simons
psi65@me.com
914 733 2443

PS My sincere apologies if any of you have received this more than once. Having been emasculated as it relates to email, etc., I am using systems to which I am not accustomed

EXHIBIT 22

Gmail by Google

Goodbye

1 message

Marc Mandel <wizard@winningonwallstreet.com> Mon, Jan 18, 2016 at 5:01 PM
To: "Joe Fox (jfox@sovestech.com)" <jfox@sovestech.com>

You are such a pig. Stealing the life savings of good decent people.

I would be looking behind your back if I were you. Your life is in danger.

Marc Mandel

Winning On Wall Street

Boulder, CO

303-442-6075

wizard@winningonwallstreet.com

www.winningonwallstreet.com

EXHIBIT 23

Gmail **Yosef Fox** [redacted]

Fwd: FW: PI Scam

1 message

Howard [redacted] > Fri, Jan 22, 2016 at 12:38 PM
To: Joe Fox <jfox@sovestech.com>, Joe Fox <jfox@dittoholdings.com>

Joe,
I hope you and your family are doing well. Thank you for all you have done and continuing to do for all the shareholders. I really do appreciate it. Below I just received this strange email from Marc Mandel. Do you know what this is about? Please get back to me as soon as possible. Thank you.

Howard [redacted]

---------- Forwarded message ----------
From: **Marc Mandel** <wizard@winningonwallstreet.com>
Date: Fri, Jan 22, 2016 at 2:48 PM
Subject: FW: PI Scam
To: [redacted] >

Winning on Wall Street investors in Ditto please be advised:

You have or will be getting a call from a man, John Strange, who is a Private Investigator in Denver. Please do not respond to his pitch.

He is incredibly dishonest and is preying on shareholders. A group of Ditto shareholders hired John Strange (Private Investigator) in December to do a background check on Joe Fox, family and Ditto Directors. Also, a search for money and assets. HE FAILED TO DELIVER THE WORK. He scammed us, and I have a few shareholders who can confirm this. He took our money delivering 600 pages of information nobody could understand.

But that is not the worst part. He then took a "confidential shareholder list" and information paid for by the shareholders who spent $4,000, and started calling people trying to get another $30,000 to present a case to the FBI.

This man is unethical and very sleazy. He did not have permission using the information the $4,000 shareholders paid for to help other investors. Please do not lose another $1,500. But as always, your choice.

Just a warning. So far, our experience with John Strange has been very disappointing. We believe he crossed the line.

Wiz

Marc Mandel

Winning On Wall Street

Boulder, CO

303-442-6075

wizard@winningonwallstreet.com

www.winningonwallstreet.com

EXHIBIT 24

Gmail **Yosef Fox** [redacted]

Fw: Joe Fox

1 message

martin [redacted] Fri, Jan 29, 2016 at 9:33 AM
Reply-To: martin [redacted]>
To: Joe Fox <jfox@sovestech.com>

Joe:

Who is John Strange?
Thank you.

martin [redacted] md

On Friday, January 29, 2016 9:39 AM, John Strange <johnstrange@elitepropi.com> wrote:

Dr. [redacted]:

My name is John Strange, I am a Licensed Private Investigator in Denver Colorado. I have been given your name from Larry Wert as a person that might want to join our small group, that includes Larry Wert, to try to recover the funds stolen or misappropriated by Joe Fox and his family as well as the other officers and directors of Ditto.

Please contact me at my office if you have a few minutes to talk.

John Strange
303-592-3000 Office
[redacted]

EXHIBIT 25

STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement is entered into on _____, 2013 by and between Yosef Fox, having an address at [redacted], Los Angeles, CA (the "Seller"), and _____, having an address at _____ (the "Purchaser").

W I T N E S S E T H:

WHEREAS, Seller desires to sell and Purchaser desires to purchase from Seller _____ shares of the common Stock in Ditto Holdings, Inc., a Delaware corporation (the "Company"), upon the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the respective representations, warranties, covenants and agreements contained herein, Seller and Purchaser hereby agree as follows:

ARTICLE I – RECITALS

Each of the Recitals is incorporated herein as Article I.

ARTICLE II - AGREEMENT OF PURCHASE AND SALE

Sale of Shares. On the terms and subject to the conditions set forth in this Agreement, Purchaser agrees to purchase, and Seller agrees to sell, issue, convey and deliver to Purchaser, _____ shares of common Stock in the Company (the "Shares") at a per share purchase price of **$1.10** , for an aggregate purchase price of $_____ ("Purchase Price"), paid in accordance with Article III hereof.

ARTICLE III - PURCHASE PRICE AND CLOSING

3.01 Purchase Price. In consideration for the sale and transfer of Seller's Shares to Purchaser, Purchaser agrees to pay and deliver to Seller the Purchase Price on the Closing Date, as defined in Section 3.02 below.

3.02 Closing. The closing of the transactions contemplated hereby (the "Closing") will take at the offices of the Company on_____, 2013 (the "Closing Date") unless another place or date is agreed to in writing by the parties. At the Closing, the parties shall make the deliveries described in Section 3.03 hereof.

3.03 Closing Date Deliveries.

(a) On the Closing Date, Seller shall cause to be delivered to Purchaser a stock certificate representing Seller's Shares being transferred to Purchaser pursuant to this Agreement.

(b) On the Closing Date, Purchaser shall deliver to Seller a bank cashier's check or wire transfer in the amount of the Purchase Price.

ARTICLE IV - REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser that as of the Closing Date:

4.01 Authority. Seller has all requisite legal capacity necessary in order to execute and deliver this Agreement, and to consummate the transactions contemplated hereby.

4.02 Duly Executed. This Agreement has been duly executed and delivered on behalf of Seller and constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms. No further action is necessary by the Seller to make this Agreement valid and binding on Seller and enforceable against him in accordance with the terms hereof, or to carry out the actions contemplated by this Agreement.

4.03 Ownership of Seller's Stock. Seller is the sole owner of the Shares free and clear of any and all encumbrances. There are no existing warrants, options, stock purchase agreements, restrictions of any nature, calls or rights to subscribe of any character or kind relating to any of the Shares.

4.04. Non-contravention. The execution, delivery and performance of this Agreement by Seller of the transactions contemplated in this Agreement, do not and will not (a) violate or conflict with any contract or other obligation by which Seller is bound or which applies to the Shares, or require a consent, approval or waiver by any party, or (b) violate any law, statute, rule, regulation, ordinance, requirement, administrative ruling, order, judgment, injunction, award, decree or process of any governmental entity by which or to which Seller or any of the Shares are bound or to which they are subject.

ARTICLE V – REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF PURCHASER

Purchaser represents and warrants to Seller that as of the Closing Date:

5.01 Authority. Purchaser has all requisite legal capacity necessary in order to execute and deliver this Agreement, and to consummate the transactions contemplated hereby.

5.02 Duly Executed. This Agreement has been duly executed and delivered on behalf of Purchaser and constitutes the legal, valid and binding obligation of Purchaser enforceable in accordance with its terms. No further action is necessary by the Purchaser to make this Agreement valid and binding on Purchaser and enforceable against Purchaser in accordance with the terms hereof, or to carry out the actions contemplated by this Agreement.

5.03 Non-contravention. The execution, delivery and performance of this Agreement by Purchaser of the transactions contemplated in this Agreement, do not and will not (a) violate or conflict with any contract or other obligation by which Purchaser is bound, or require a consent, approval or waiver by any party, or (b) violate any law, statute, rule, regulation, ordinance, requirement, administrative ruling, order, judgment, injunction, award, decree or process of any governmental entity by which or to which Purchaser is bound or to which Purchaser is subject.

5.04. Investment Intention; No Resales. Purchaser represents, warrants and agrees that: (i) Purchaser is acquiring the Shares for investment solely for Purchaser's own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof; (ii)

the Shares purchased pursuant hereto will be issued only in the name of the Purchaser; and (iii) all dispositions of Shares by Purchaser must comply with applicable law, including state and federal securities law.

5.05 Purchase Representations. Purchaser acknowledges that:

(a) The Shares have not been registered under the Securities Act, or any state or foreign securities laws;

(b) the Shares must be held indefinitely and Purchaser must continue to bear the economic risk of the investment in the Shares unless and until the offer and sale of such Shares are subsequently registered under the Securities Act and all applicable state securities laws or an exemption from such registration is available to the Purchaser with respect to the Shares;

(c) there is no established market for the Shares and it is not anticipated that there will be any public market for the Shares in the foreseeable future;

(d) the Company is under no obligation to register the Shares under the Securities Act on behalf of Purchaser, to assist Purchaser in complying with any exemption from registration or to consent to the transfer of the Shares;

(e) Rule 144 promulgated under the Securities Act is not presently available with respect to the sale of any securities of the Company, and the Company has made no covenant to take any action necessary to make such Rule available for a resale of the Shares;

(f) when and if the Shares may be disposed of without registration under the Securities Act in reliance on Rule 144, such disposition may be made only in limited amounts in accordance with the terms and conditions of such Rule;

(g) a restrictive legend shall be placed on the certificates representing the Shares; and

(h) a notation shall be made in the appropriate records of the Company including those of its transfer agent, if any, indicating that the Shares are subject to restrictions on transfer and appropriate stop-transfer instructions will be issued with respect to the Shares.

5.06 Additional Purchaser Representations. Purchaser represents, warrants and acknowledges to Seller that:

(a) Purchaser has carefully reviewed, is familiar with and understands any and all documents and information requested by Purchaser or otherwise supplied by the Company in connection with the purchase and sale of the Shares;

(b) All documents, records and information pertaining to a purchase of the Shares which have been requested by Purchaser have been made available or delivered to Purchaser;

(c) Purchaser is fully familiar with the business and operations of the Company, and has had an opportunity to ask all his or her questions of, and in each instance receive

satisfactory answers from, the Company concerning the terms and conditions of Purchaser's investment and the financial condition and planned business and operations of the Company;

(d) The Company has a limited operating history and limited assets, and is a high-risk venture. The Company's actual results may vary from projected results and the variations may be significant;

(e) There can be no assurance the Company will be successful in raising additional capital if needed or that the terms upon which such financing is available will be acceptable to the Company;

(f) No documents or oral statements given or made by Seller, the Company or any of the Company's affiliates are contrary to the information and acknowledgements contained in this Agreement;

(g) The information provided to Purchaser is sufficient to allow Purchaser to make a knowledgeable and informed decision regarding his or her investment in the Shares;

(h) Purchaser has obtained professional advice, including legal, accounting and tax advice, in connection with his purchase of the Shares, or has made an informed decision not to seek such advice;

(i) Purchaser (A) has adequate means of providing for Purchaser's current financial needs and possible personal contingencies and has no need for liquidity in Purchaser's investment in the Shares, (B) can bear the economic risk of losing Purchaser's entire investment in the Shares, (C) has such knowledge and experience in financial matters that Purchaser is capable of evaluating the relative risks and merits of Purchaser's purchase of the Shares, (D) is familiar with the nature of, and risks attendant to, Purchaser's purchase of the Shares, and (E) has determined that the purchase of the Shares is consistent with Purchaser's financial objectives;

(j) Purchaser may not be able to sell or dispose of the Shares even in the event of a personal emergency. Purchaser's overall commitment to investments which are not readily marketable (including Purchaser's investment in the Shares) is not disproportionate to Purchaser's net worth;

(k) Seller has not guaranteed, represented or warranted to Purchaser either that (A) the Company will be profitable or that Purchaser will realize profits as a result of his or her investment in the Shares, or (B) the past performance or experience on the part of any officer, director, stockholder, employee, agent, representative or affiliate thereof, or any employee, agent, representative or affiliate of the Company will in any way indicate the predictable results of ownership of the Shares; and

(l) Purchaser understands that: (i) an investment in the Shares involves certain risks; (ii) no federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the Shares; and (iii) there currently are restrictions upon the transferability of the Shares and no public market for the Shares is expected to develop; and, accordingly, Purchaser may not be able to dispose of the Shares when desired (even in the event of an emergency).

5.07 Lock-up. Purchaser agrees that if the Company makes an initial public offering of its shares (an "IPO"), Purchaser shall not sell or otherwise transfer in any manner (or offer or agree to sell or otherwise transfer in any manner), directly or indirectly, without the prior written permission of the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten), any shares of Common Stock (or any interest therein) during the Lockup Period. For purposes of the preceding sentence, any agreement, commitment or arrangement whereby any of the economic value, benefits or attributes of any such shares are directly or indirectly transferred (including any call option or other derivative security related to such shares) shall be treated as a sale of such sales. As used herein, "Lockup Period" means the period of seven days prior to the effective date of the registration statement for such IPO and the period of 180 days (or such smaller or greater number of days requested by the lead underwriter) after such effective date. Prior to the IPO, if requested by the Company, Purchaser shall execute and deliver a customary form of "lockup" agreement restricting the transfer of shares of Common Stock during the Lockup Period, which lockup agreement shall be in form and substance satisfactory to the lead underwriter for the IPO (or of the Company, if the IPO is not underwritten) in its sole discretion. Purchaser agrees that if, prior to the IPO, Purchaser transfers any shares of Common Stock, Purchaser shall (i) cause the transferee to agree to be bound by this Section 5.07 pursuant to a written joinder signed by the transferee in form and substance satisfactory to the Company in its sole discretion, and (ii) deliver such signed joinder to the Company at or before the time of such transfer. Purchaser agrees that any transfer of shares in violation of the preceding sentence shall be null and void. The restrictions on transfer in this Section 5.07 are in addition to, and not in limitation of, any restriction on transfer in any other agreement or imposed by applicable law.

ARTICLE VI – INDEMNIFICATION

6.01 By Seller. Seller shall indemnify and hold Purchaser harmless from and against any and all claims, losses, damages, injuries, causes of action, demands, attorneys' fees and costs, expenses and liabilities arising from or in connection with any misrepresentations or other failures of Seller to comply with the terms of this Agreement.

6.02 By Purchaser. Purchaser shall indemnify and hold Seller harmless from and against any and all claims, losses, damages, injuries, causes of action, demands, attorneys' fees and costs, expenses and liabilities arising from or in connection with the operation of the Company at any time following the Closing Date or from or in connection with any misrepresentations or other failures of Purchaser to comply with the terms of this Agreement.

ARTICLE VII - MISCELLANEOUS

7.01 Modification; Waiver. This Agreement may be modified, amended or supplemented only by a written instrument signed by each of Seller and Purchaser. The failure of any party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

7.02 Entire Agreement. This Agreement, including any exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes any and all other prior understandings, contracts or agreements, representations or warranties, oral or written, between the parties with respect of the subject matter hereof.

7.03 Expenses. Whether or not the transaction contemplated herein shall be consummated, each party shall pay its own expenses incident to the preparation and performance of this Agreement.

7.04 Rights and Remedies. The rights and remedies granted under this Agreement shall not be exclusive rights and remedies, but shall be in addition to all other rights and remedies available at law or in equity. No party shall be deemed to have been the drafter of this Agreement for the purpose of invoking any rule of interpretation in favor of the "non-drafting party".

7.05 Further Actions. Each party shall execute and deliver such other certificates, agreements, conveyances, certificates of title and other documents and shall take such other actions as may reasonably be requested by the other in order to consummate or implement the transactions contemplated by this Agreement.

7.06 Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered, or three business days after having been mailed, certified mail, first-class postage paid, to the address set forth at the head of this Agreement or to such other address of which notice has been duly given.

7.07 Assignment; Binding Effect. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, by any party hereto without the prior written consent of the other party, which consent may be withheld at the sole and unreviewable discretion of the party from whom such consent is sought. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as aforesaid, nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto and their said successors and assigns, any rights, remedies or obligations under or by reason of this Agreement.

7.08 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any adverse manner to either party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

7.09 Governing Law; Submission to Jurisdiction; Selection of Forum. This Agreement shall be governed and controlled by the laws of the State of California as to interpretation, enforcement, validity, construction, effect and in all other respects without reference to principles of choice of law. The parties agree that any disputes arising out of or related to this Agreement shall be litigated in the Federal or state courts having a situs within Los Angeles County, California. The parties hereby consent and submit to the jurisdiction of any local, state or federal court located within said city and state. In the event of the commencement of such proceedings, the prevailing party shall be entitled to recover from the non-prevailing party the reasonable attorneys' fees, costs and expenses incurred by the prevailing party in connection with those proceedings.

7.10 Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Facsimile and digital signatures shall be deemed original.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the date first above written.

SELLER:	**BUYER**:
Yosef Fox	Name:

Wiring instructions

Wells Fargo
7950 W. Sunset Blvd
Los Angeles, CA 90046
ABA: 121-000-248
Acct: [redacted]
Account Name: [redacted]

EXHIBIT 26

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

PAUL SIMONS, an Individual,	)	
	)	
Plaintiff-Counter Defendant,	)	**Case No. 14-CV-309**
	)	
v.	)	**HON. HARRY D. LEINENWEBER**
	)	
	)	
DITTO TRADE, INC., an Illinois	)	
Corporation, DITTO HOLDINGS, INC.,	)	
A Delaware Corporation, and	)	
JOSEPH FOX, an Individual,	)	
	)	
Defendants—Counter Plaintiffs.	)	

PLAINTIFFS MOTION FOR SANCTIONS FOR PERJURY

NOW COMES Defendant Joseph J. Fox, as a *pro se* litigant, and in support of his **Plaintiffs Motion for Sanctions for Perjury**, states as follows:

Introduction

1. As the result of a plethora of misrepresentations and misleading omissions, the Court has been led to believe that this case is a "relatively straightforward employment dispute", whereby a plaintiff sued a defendant employer for retaliation after the plaintiff exposed alleged wrongdoing of the defendant Joseph Fox ("Defendant Fox") to the defendant-employer (Ditto Holdings) and authorities, e.g., the Securities Exchange Commission ("SEC"). See May 2, 2016 Order, p. 12 [168].

2. The Court's impression is entirely based on the pleadings and motion practice of Plaintiff and his counsel.

3. Plaintiff Paul M. Simons, by and through his counsel, has pulled the wool over the Court's eyes and made a mockery of the judicial system.

Simons' Entire Case is Predicated on a Lie

4. Evidence uncovered during discovery (subsequent to this Court's decisions on both Defendants' Counterclaims and Amended and Restated Counterclaims in this matter) clearly demonstrate that the entire premise for Simons' case was one big lie, and his lies have continued unabated through nearly all of his pleadings in this matter.

5. At page 1, ¶ 1 of his original Complaint [1] filed on January 16, 2014, under the heading "**Nature of the Case**", Simons stated:

> This action arises from Defendants' **unlawful retaliation** against Simons **for reporting to** the Ditto Holdings Board of Directors and the Securities and Exchange Commission ("SEC"), in fulfillment of his fiduciary duties, **evidence of potential past and ongoing wrongdoing and fraud** being perpetrated on Ditto Trade, Ditto Holdings, and Ditto Holdings' shareholders. This apparent **wrongdoing** included, among other things, **misappropriation of funds** and possible violations of state and federal securities laws.
> **(Emphasis added)**

At page 35, ¶ 131 of his original Complaint [1], Simons also stated:

> Simons was **discharged**, suspended, threatened, harassed and/or otherwise discriminated against **because of**, and **in retaliation for**, his lawful conduct in **providing** (and threatening to provide) **information to the SEC**.
> **(Emphasis added)**

Proof Simons Lied

6. The truth of the matter is that a decision had been made to terminate Plaintiff Simons (an at-will employee) well before he sent any Board Demand Letter or made any contact with the SEC accusing Defendant Fox of criminal wrongdoing – and Plaintiff knew that decision had already been made.

7. What was sold as a retaliatory discharge and [redacted]r case is more accurately a false and fabricated [redacted] case—a manipulation of the courts, administrative agencies, and the evidence.

8. Plaintiff is no [redacted] He knew he was going to be terminated before any Board Demand Letter was sent (or even drafted or even before Plaintiff Simons retained the law firm that wrote the letter). Put another way, he [redacted] a false [redacted] because he knew he was getting fired.

9. Nor was Plaintiff a victim of retaliatory discharge: The decision to fire Plaintiff was made well before he submitted any Board Demand Letter or made any contact with the SEC.

10. Defendant Fox and Simons had major disagreements[1], dating back to Simons' first week on the job (8 ½ month prior to his termination).

11. Simons knew for some time that he was in the line of fire to be terminated from his job[2]. What he didn't know was exactly when he would be terminated.

12. On Friday, September 6, 2013, after Simons insulted the Defendant (and the Defendant's children) for the last time, the Defendant once again discussed the termination of Simons with Ditto Holdings' General Counsel (Stuart Cohn), Chief Operating Officer (David Rosenberg), Executive Vice President (Brian Lund) and others, and the final decision was made that day (September 6, 2013) to terminate Simons and to inform Plaintiff-Simons on Tuesday, September 10, 2013, when Defendant Fox (a resident of California) would next be in the Chicago office.

---

[1] This was confirmed by Adam Stillman, Simons' other 26 year old confidante and co-author of the September 9, 2013 knowingly false "Board Demand Letter", in his December 9, 2013 affidavit. "***I was aware that there was friction between Mr. Fox and Mr. Simons regarding certain business initiatives, and also regarding relations with employees and shareholders that dated to the beginning of Simons' employment.***" See, Stillman Affidavit attached hereto as Exhibit 1.

[2] Simons was readying himself for his expected termination after his two blowout fights with Defendant Fox on August 22, 2013 and August 26, 2016. In an August 27, 2013 email from Simons to Jeremy Mann, Simons stated: "***Fyi - i m keeping the laptop. It is my New Ditto laptop***"). See, attached hereto as Exhibit 2.

13. Unbeknownst to Defendant Fox, one of his young executives had become extremely close with Simons. Interim CFO Jeremy M. Mann (26 years old) had been secretly informing Simons for weeks about the confidential termination discussions being had by Defendant Fox and other members of his senior management[3].

14. On September 8, 2013, before any Board Demand Letter or contact with the SEC, Plaintiff's confidante, Mann, sent an advance-notice electronic message to Plaintiff stating: "***Ok. Joe [Fox] is firing you Tuesday***"—September 10, 2013.

See Advance Notice of Termination to Plaintiff, attached hereto as Exhibit 3.

15. Plaintiff-Simons responded to the CFO: "***Cool***" .... Id.

16. For the record, Plaintiff did not produce this written advance notice email to Defendant Fox... or to the SEC ... for upwards of 20 months after he falsely claimed to the SEC (and FINRA) that his termination was "*extreme retaliation*" for reporting wrongdoing by Defendant Fox, and 16 months since he made the same false claims in this lawsuit. In fact, it wasn't produced until midway through the second day of the deposition of Jeremy Mann, held on May 14, 2015.[4]

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[4] Jeremy Mann never produced his advanced warning email to Plaintiff-Simons from September 8, 2013, even though he was under subpoena to turn over all emails between him and Plaintiff-Simons. He either purposely deleted the most important evidence in this matter, or purposely failed to provide it in an effort to protect Plaintiff-Simons.

During the first day of his deposition on is April 27, 2015, three weeks before Plaintiff-Simons counsel produced it during Mann's second day of testimony, Mann testified to the following:

ATTORNEY:	Okay. And did you produce that e-mail among the various documents that you produced in response to the subpoena?
JEREMY MANN:	Well, like I said originally, I'm not 100 percent positive it was an e-mail. I think it was, and if it was, it was absolutely produced. I gave everything I've ever sent or received from Paul, so...

17. Put another way, the exculpatory email was hidden from virtually everyone as a tactic to hide the truth of Plaintiff's termination; that is, the decision to terminate Plaintiff was made well before Plaintiff sent a Board Demand Letter and made contact with the SEC ... thus all of the bells, balloons, and [redacted] of "retaliatory discharge" were nothing more than carnival games to mislead this Honorable Court and the SEC (and later FINRA), and to further Plaintiff's scheme to harm Defendant Fox by and through a false complaint for retaliatory discharge, etc.

18. In addition to the September 8, 2016 "Ok. ***Joe is firing you Tuesday***" email from Jeremy Mann to Simons, Simons received another advanced warning email later that day from Adam Stillman[5].

19. This September 8, 2013 email chain began with a message from Brian Lund (a co-founder of the Company) to Adam Stillman. See September 8, 2013 email attached hereto as Exhibit 5.

20. The email from Lund was about his purported conversation with Defendant Fox about his decision to fire Simons[6]. Lund ended the email to Stillman with... "***I don't see, barring a miracle, how Paul stays with the company.***"

Id.

See April 27, 2015 deposition of Jeremy Mann at pp. 214 (lines 19-24)—215 (lines 1-2), attached as Exhibit 4. (Emphasis added)

[5] Minutes later, Plaintiff-Simons forwarded this second advanced warning email to his counsel of only one day Paul Huey-Burns. Huey-Burns, who sent his first email to former co-workers later the next day, never tells the SEC (or anyone else for that matter) that Plaintiff-Simons knew he was being terminated before he ever[redacted]." This purposeful omission by Huey-Burns, allowed Plaintiff-Simons to perpetuate the lie for 20 months that he didn't know he was being fired until after he delivered his Board Demand Letter on Monday September 9, 2013.

[6] In this email from Brian Lund, Lund transcribes a purported text conversation with Defendant Fox. In other words, even though it would have been easier to just screen grab the purported text and then send that picture to Stillman, transcribing the purported text allowed Lund to edit as he pleased. No such text conversation took place.

21. Stillman forwarded Lund's email to Simons telling him that... "***Brian has spent time tonight trying to talk joe out of firing you.***"

Id.

22. Simons responded two minutes later with... "***Thanks.***"

Id.

23. To be perfectly clear, Plaintiff-Simons never once mentioned in any communication with the SEC or FINRA, or any of his many pleadings in three different courts, that he knew he was being terminated before he began his assault on Defendant Fox, his family and the Company.

Improper Motion Practice

24. The pleadings and motion practice by Plaintiff-Simons and his counsel have been purposely misleading, if not completely false.

25. Plaintiff-Simons and his attorneys have repeatedly fostered the false narrative that Plaintiff-Simons' termination was in retaliation for [redacted] For example:

a. At page 1, ¶ 1 of his Opposition to Defendant's Motion to Dismiss Counts II, IV-VI, VIII & XII of Plaintiff's Complaint filed on April 9, 2014, Simons stated:

> *In retaliation for requesting an internal investigation and providing information to the SEC, Defendants unlawfully terminated Simons' employment....*

b. At pages 1-2, ¶ 2 of his Memorandum in Support of Motion to Dismiss Defendant's Counterclaim filed on April 23, 2014, Simons stated:

> *Simons ... made a demand on Ditto's Board for resolutions authorizing, among other things, an independent audit of the companies' financial history and stock ledger. Fox retaliated swiftly. By the next morning, Fox had fired Simons from Ditto Trade and had him physically locked out of Ditto's offices...*

c. At page 2, ¶ 2 of his Reply in Support of His Motion to Dismiss Defendants' Counterclaim filed on June 10, 2014, Simons stated:

> *Instead, Fox fired Simons and locked him out of Ditto's offices immediately after Simons requested the investigation....*

d. At page 3, ¶ 4 of his Opposition to Defendants' Motion for Abstention filed on September 17, 2014, Simons stated:

> *Simons reported these issues to the Ditto Holdings' Board and the SEC. The next morning, September 10, 2013, Fox informed Simons that he had been terminated from his position with Ditto Trade and placed on "indefinite paid leave" from Ditto Holdings.*

e. At page 2, ¶ 1 of his Memorandum in Support of Motion to Dismiss Counts I, II and IV of Defendants Amended Counterclaim filed February 13, 2015, Plaintiff stated:

> *...made a written request of Ditto's Board on September 9, 2013 (the "Board Letter")... Later that day, Huey-Burns sent an email to an SEC lawyer he knew, making him aware of the situation generally (the "Huey-Burns Email") and attaching the Board Letter.*
>
> *The very next morning, September 10, Simons was fired as CEO of Ditto Trade, locked out of Ditto's offices...*
>
> See also (p. 3, ¶ 3)("*These Amended Counterclaims represent the latest in a series of efforts by Fox and Ditto to strike back at Simons for* [redacted]

f. At page 1, ¶ 1 of his Motion (I) For Protective Order to Prevent Abuse of Discovery, and (II) to Impose Sanctions on Defendants' For Deliberately Violating the Agreed Confidentiality Order Filed December 30, 2015, Simons stated:

> *[H]e fired Simons for raising potential concerns to the Ditto Board of Directors and alerting the SEC to potential violations of securities laws....*

26. To be clear, Plaintiff-Simons, through his counsel, has consciously and by design perpetuated the lie of "*extreme retaliation*" through their improper Motion Practice as an effort to bully and terrorize Defendant Fox. This includes Plaintiff-Simons' Motions

to Compel, Motion for Sanctions and Petition for Fees.

27. Defendant Fox provided the court evidence of his compliance with all Discovery requests in his June 8, 2016 Motion for Additional Time to Respond to Petition for Fees. See June 8, 2016 Motion attached hereto as Exhibit 6.

28. Unfortunately, Defendant Fox's former counsel, John Ricci, misled the Court by advising the Court (in Defendant Fox's absence) that, in addition to wanting Mr. Ricci to withdraw as counsel, Defendant Fox wanted to dismiss his pending Motion for Additional time. Nothing could have been further from the truth. This is clearly evidenced by the email from Defendant Fox to John Ricci the night before the June 15, 2016 hearing, as well as the transcripts from hearing itself.

29. Attorney Ricci was aware that Defendant Fox wanted him to ask the Court to allow him time to obtain new counsel to represent Defendant in the Petition for Fees, and in the matter generally[7]. See June 8, 2016 email attached hereto as Exhibit 7. See also June 18, 2016 court transcripts.

30. A more recent example of Simons' bullying actions and abuse of process against Defendant Fox is Plaintiff-Simons' September 6, 2016 *Motion to Hold Defendant Joseph Fox in Contempt of Court and to Impose Sanctions*. In this Motion, chock full of additional lies and misrepresentations, Simons, through his counsel is asking this Honorable Court to "*confine*" Defendant Fox for purported violations that are predicated on a lie.

31. To be clear, Plaintiff-Simons has lied to this court from day one, destroyed the life of Defendant Fox, his family and many others, and is now asking this Honorable

[7] Defendant Fox plans to file a Motion for Reconsideration in regard to Simons' Petition for Fees.

Court to order jail time for Defendant Fox.

32. This is litigation abuse at its worst.

Simons Told the Same Lie in Other Courts

33. To be clear, Plaintiff Simons has told the lie of "extreme retaliation" as the reason for his termination many times, in many ways and in many forums. Here are two such examples:

1) Simons lied to the Circuit Court of Cook County. In his Motion to Dismiss pursuant to 735 ILCS 5/2-619(a)(9) ["anti-SLAPP" Motion[8]] filed on November 3, 2013 in that matter captioned Ditto Holdings v. Paul Simons and Jeremy Mann, 2013 L 010424, before the Honorable Patrick J. Sherlock, Simons made the following false statement subject to Illinois Supreme Court Rule 137:

> **Simons ... *had no prior knowledge* and did not learn of his termination *[until] September 10, 2013*, when he received his termination letter.**

See Motion to Dismiss Pursuant to 735 ILCS 5/2-619(a)(9), pp. 25-26, attached hereto as Exhibit 8. (***Emphasis added***).

2) In the Brief and Argument of Defendant-Appellant Paul Simons filed on May 19, 2014 in Simons' appeal of Judge Sherlock's **Denial** of his Motion to Dismiss in that matter captioned Ditto Holdings v. Paul Simons and Jeremy Mann, 2013 L 010424, Simons made the following statement to the Illinois Appellate Court (1st Dist)[9]:

> **The suggestion that Simons knew he was going to be fired is unsupported by any facts.**

See Brief and Argument of Defendant-Appellant Paul Simons, p. 30, attached hereto as Exhibit 9.

Perjury by Simons in This Matter

[8] The Honorable Judge Sherlock denied Simons' "anti-SLAPP" motion.

[9] The Illinois Appellate Court ruled against Simons and affirmed Judge Sherlock's original ruling denying Simons "anti-SLAPP" Motion.

34. In addition to misleading the Court that his termination was an "***unlawful retaliation...for reporting to the Ditto Holdings Board of Directors and the Securities and Exchange Commission***," Plaintiff-Simons knowingly prejudiced the Court with his false accusations of fraud and misappropriation. There is clear evidence that Simons committed perjury over and over again during his December 16, 2015 deposition (as noted below, a full two years after Plaintiff Simons had contacted the SEC with his allegations). Here are a few examples of Simons' Perjury when he attempted to walk-back his false claims:

ATTORNEY:	And you got your answer from the SEC where they never made any findings that Joe Fox had engaged in fraud or misappropriation of funds, didn't you?
*	* *
PAUL SIMONS:	Every question you asked me --[interrupted by attorney] -- relates to fraud and misappropriation of funds. **I never made allegations of fraud and misappropriation of funds, and I did not make reports to the SEC about fraud and misappropriation of funds.**

See December 16, 2015 deposition of Paul M. Simons at pp. 281 (lines 10-24)—282 (lines 1-11), attached hereto as Exhibit 10. **(Emphasis added)**

ATTORNEY:	Did the Goldberg Kohn report conclude that Joe Fox **had** misappropriated funds from Ditto?
PAUL SIMONS:	The Goldberg Kohn report **did not** conclude that, **nor did I ever allege that**.

Id. at pp. 275 (lines 6-9). **(Emphasis added)**

ATTORNEY:	Did you believe as of the time of [Simons counsel's September 9, 2013 email to the SEC with claims of "well-documented"

fraud] that there was a fraud that was in the process of being perpetrated as of that date?

PAUL SIMONS: You know, **I don't think I've ever actually used the term fraud in this or any other pleading**. Others have.

Id. at pp. 266 (lines 9-14). **(Emphasis added)**

Proof of Perjury in Simons' Deposition

35. In addition to the blatant contradiction by Plaintiff Simons between his "*Nature of the Case*" in this matter and his deposition testimony, there is even more proof of Simons' perjury in the federal document that Plaintiff Simons signed under penalty of federal perjury laws.

36. In his sworn SEC Form [redacted] ("Tip, Complaint, or Referral")[10] filed on December 9, 2013 with the Enforcement Branch of the Securities Exchange Commission ("SEC"), Plaintiff-Simons made the following knowingly false statements:

1) Under the section entitled "*Nature of Complaint*," Plaintiff-Simons, in fact, alleged falsely that Defendant Fox engaged in the following 12 different illicit activities, including, specifically, "fraud *and* misappropriation of funds":

> *"**Theft/Misappropriation**. Misrepresentation/Omission. **Offering fraud**. Corporate disclosure. False and misleading statements. **Financial fraud**. Selective Disclosure. Illegal security sales. Improper payments of finders fees. **Fraudulent inducement**. False Form D filings. Violation of Dodd Frank and Retaliation."*

See Plaintiff-Simons' Sworn SEC Form [redacted], attached hereto as Exhibit 11, p. 2.

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[10] According to the SEC's '[redacted] website, "To qualify for an award under the [redacted] Program, you must submit information regarding possible securities law violations to the Commission in one of the following ways:

- Online through the Commission's Tip, Complaint or Referral Portal; or
- By mailing or faxing a Form [redacted] to: *SEC Office of the* [redacted]

(Information available at: https://www.sec.gov/about/offices/owb/owb-tips.shtml) (Emphasis added)

(**Emphasis added**).

2) Under the section entitled "*Describe how and from whom the* [redacted] *obtained the information that supports this claim*," Plaintiff-Simons, in fact, alleged falsely that Defendant Fox engaged in "misappropriation of funds":

> *"The information came to light over 2 to 3 week period in August during which myself, the CFO [26 year old Jeremy Mann], and the President of the company [26 year old Adam Stillman] discovered and examined evidence of potential securities law violations and misappropriation of company funds that appeared to benefit Yosef Fox and members of his family."*
>
> Id. at p. 4. (Emphasis added).

3) Under the section entitled "*Has the* [redacted] *reported this violation to his or her supervisor, compliance officer,* [redacted] *hotline, ombudsman, or any other available mechanism at the entity for reporting violations[,]*" Defendant Simons once again alleged falsely that Joseph engaged in "fraud *and* misappropriation of funds":

> *"As CEO of Ditto Trade, and an Officer & Director of parent Ditto Holdings, I, together with the President of parent Ditto Holdings [Adam Stillman] and the CFO of Ditto Holdings [Jeremy Mann], both co-founders, submitted a letter to the Ditto Holdings Board of Directors detailing concerns relating to and citing evidence indicating the appearance of **extensive misappropriation of company funds**, potentially illegal private and personal share transactions, undisclosed and improper payments to a facilitator of unregistered share transactions, false and misleading disclosures in various regulatory filings, and material lapses of financial governance generally, **all of which appear to indicate past, present and ongoing defrauding of shareholders by Joseph Fox** and others associated with him. Joseph Fox and I were 2 of 3 members of the 3-person Board."*
>
> Id. at p. 3. (Emphasis added).

Perjury by Simons in his SEC Form [redacted]

37. The SEC Form [redacted] does more than add additional proof that Simons perjured himself in his December 16, 2015 deposition. It is chock full of even greater perjured statements, along with fabricated evidence. Here are some of the more egregious

examples of perjury by Simons in his SEC Form [redacted]:

A) Under the section titled "*State in detail all facts pertinent to the alleged violation. Explain why the* [redacted] *believes the acts described constitute a violation of the federal securities laws.*", Simons made the following perjured statements:

Example 1:

New information is attached:

1) email from purchaser in Boulder Colorado, supporting claim of unregistered facilitator arranging personal sales of private restricted shares by Joe Fox, and of Joe Fox is representation the proceeds would be realized by company, and the transactions were facilitated through seminar arranged by boulder facilitator.

Id. at p. 3.

Proof of Perjury

38. The SEC Form [redacted] did not include an email from a purchaser that supported ANY claim of an "*unregistered facilitator arranging personal sales of private restricted shares by Joe Fox, and of Joe Fox is representation the proceeds would be realized by company...*"

See Plaintiff-Simons' Sworn SEC Form [redacted], attached hereto as Exhibit 11.

39. Defendant Fox never told any buyer (or potential buyer) of his shares that proceeds would be "*realized by the Company.*" To the contrary, there are several emails[11] where Defendant Fox explained to potential purchasers that the reason he was selling his shares at a $0.15-$0.25 per share discount from what the Company had recently sold its

[11] See, April 9, 2013 email between Defendant Fox and an investor attached hereto as Exhibit 12. See, also April 19, 2013 email between Defendant Fox and an investor attached hereto as Exhibit 13.

shares was because the Company **WAS NOT** getting money from his sale and therefor the Company would not be using it to grow their investment.

Example 2:

> *2) request from the PGA counsel to cease-and-desist misrepresentation of relationship between Ditto Trade and the PGA in support of allegations of false and misleading representation to prospective investors*
>
> Id. at p. 3.

Proof of Perjury

40. Plaintiff Simons, in his malicious attempt to have the SEC criminally charge Defendant Fox, concocted an elaborate scheme to get the SEC to believe that Defendant Fox was fraudulently inducing prospective investors with the claim of an existing partnership with the Professional Golfers Association ("PGA")[12]. Here is a brief

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[12] As is clear from his own sworn testimony, Simons already knew, before he called the PGA, that there was no partnership; no partnership was ever described by the Ditto Companies; and no partnership was ever represented by Joseph:

ATTORNEY:	Have you ever seen anything generated by Ditto that said -- used the word partnership at any time to describe the relationship between Ditto and any PGA entity?
PAUL SIMONS:	In writing?
ATTORNEY:	Yeah, in writing.
PAUL SIMONS:	**No.**
ATTORNEY:	Now, did Joe Fox ever tell you that Ditto had a, quote, partnership with a PGA entity?
PAUL SIMONS:	I think Joe -- **did he ever specifically tell me there is a partnership? No.** I think Joe Fox represented that there was something with the PGA. It presented as an idea...

Id. at pp. 329 (lines 23-24)-pp. 330 (lines 1-11), attached hereto as Exhibit 14. (**Emphasis added**)

description of the scheme (the details of which are set forth in a 9-page document attached hereto as Exhibit 15):

Step one: Plaintiff-Simons contacts the PGA telling them that Ditto (through Defendant Fox) was claiming to have a partnership with the PGA.

Step two: PGA tells Plaintiff-Simons that Ditto should "cease and desist" the "misrepresentation".

Step three: Plaintiff-Simons leads the SEC to believe that it was the PGA who found that Defendant Fox was making *"false and misleading representation to prospective investors"*, in an effort by Defendant Fox to frequently induce investors.

41. Plaintiff-Simons malicious efforts with the PGA not only provided false evidence of Defendant Fox's conduct, it clearly defamed Defendant Fox to the PGA that would have made it impossible for Defendant Fox to ever have a business relationship with either the PGA Tour, or the PGA of America.

42. Plaintiff-Simons defamatory efforts is included in Defendant Fox's Count IV of his amended and restated counterclaim.

Example 3:

3) *Fraudulent shareholder communication with CEO Joe fox falsely claims five-fold increase in revenues*[13]*, and falsely states that Ditto Trade has annually audited financial statements*

Id. at p. 3.

Proof of Perjury

43. All licensed stockbrokerage firms, like Ditto Trade, MUST be audited annually. Ditto Trade was in fact audited every year since it became a licensed brokerage

[13] There was in fact a five-fold increase in revenue. Plaintiff Simons does not provide any evidence to the contrary.

firm in 2010[14]. As a purported Wall Street executive with 25 years of experience, Plaintiff Simons had to have known that he was lying here when he wrote this false allegation.

B) Under the section titled "*Describe how and from whom the [redacted] obtained the information that supports this claim.*", Simons made the following perjured statement:

> *"I was the CEO of Ditto Trade from January 2, 2013, until I was terminated September 10th the day after reporting concerns and evidence of fraud and securities law violations both internally to the board the morning of the ninth and subsequently to the SEC Chicago office later on the 9th.*
>
> Id. at p. 4. (Emphasis added).

Proof of Perjury

44. It should be quite clear by now that Plaintiff Simons knew that he was getting fired BEFORE he reported anything (or for that matter, even considered reporting anything). See Advance Notice of Termination to Plaintiff, attached hereto as Exhibit 3. However, because he and his former counsel, Paul Huey-Burns, neglected to share the truth about Simons' termination for more than 20 months, Plaintiff Simons was allowed to perpetuate the lie to the enormous detriment of Defendant Fox and his family.

C) Under the section titled "*Provide any additional information you think may be relevant*", Simons made the following perjured statement:

> *"When I first notified the SEC on September 9, I was sitting CEO, officer, and Board Member acting out of a sense of duty. I had no expectation of or interest in an award for doing so, nor did I have*

[14] Assuming that Simons was ignorant of the rules related to licensed stockbrokerage firms needing to be audited annually to maintain their licensing, a simple search of the SEC.gov website would have educated him to the truth. Unfortunately, as stated by Defendant Fox many times, Simons never asked a single question related to his false charges against Mr. Fox before disseminating them to the world.

Here is a public link to all of Ditto Trade's annual audits covering years 2010 (inception) through 2014. The audit for 2015, which was due in early 2016, was never completed as the Ditto Trade was forced to close its doors on December 18, 2015 (in the middle of Defendant Fox's deposition).

https://www.sec.gov/cgi-bin/browse-edgar?company=ditto+trade&owner=exclude&action=getcompany

> *any expectation of the extreme retaliatory action that have been taken against me."*
> Id. at p. 5. (Emphasis added).

Proof of Perjury

45. Once again, Simons is perpetuating the "*extreme retaliatory*" lie. See paragraph 29 above.

Under Penalty of Perjury

46. To be clear, Simons' Sworn SEC Form [redacted] was signed "*under penalty of perjury under the laws of the United States*":

> *I declare under penalty of perjury under the laws of the United States that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I fully understand that I may be subject to prosecution and in eligible for a [redacted] award if, in my submission of information, my other dealings with the SEC, or my dealings with another authority in connection with the related action, I knowingly and willfully make any false, fictitious, or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statements or entry.*
>
> *Signed by Paul M. Simons*
>
> Id. at p. 6.

47. One might ask why Plaintiff-Simons, during his December 16, 2015 deposition, would completely contradict what he had previously submitted to the SEC (through their Form [redacted]) under oath. The answer is quite simple.

48. Plaintiff-Simons undoubtedly never expected the SEC to release the Form [redacted] to Defendant Fox. However, in November 2015, Defendant Fox received an external hard-drive from the SEC with approximately 350,000 pages of evidence from their investigation initiated by Plaintiff-Simons false statements in September 2013.

49. Complying with this Courts Order as it specifically related to communication with the SEC, Defendant Fox immediately turned the hard-drive over to Plaintiff-Simons counsel.

50. What neither Plaintiff-Simons or Defendant Fox knew at the time of Plaintiff-Simons deposition a few weeks later was that the SEC Form [redacted] was included in the 350,000 pages. The reason that neither party was aware of this, was that approximately 100,000 pages from the SEC hard-drive were unsearchable images of pages, and not searchable PDF's, emails, text or MS Word documents.

51. It took nearly three months for Defendant Fox to search through the unsearchable images to uncover the SEC Form [redacted] (as well as other evidence of malice).

52. Plaintiff-Simons attempt to mislead this Court through his December 16, 2015 testimony, is not dissimilar his efforts to hide the evidence for 20 months that he knew he was being terminated before he falsely blew any kind of [redacted] This was done to allow Plaintiff-Simons to perpetuate a false narrative.

Summary

53. To be clear, Plaintiff Simons' entire complaint rests, in inverted pyramid-like fashion, on the real reason Simons was terminated from Ditto Holdings.

54. The foundation of Plaintiff-Simons case, and every Count alleged by him, is based on his claim of wrongful termination. When you remove this false claim, Plaintiff-Simons entire case (including every Motion put forth in this Matter), becomes an empty vessel and should therefore need to be dismissed with prejudice.

55. Plaintiff Simons, by and through his counsel, have lied repeatedly in a malicious effort to damage or destroy Defendant Fox.

56. Plaintiff Simons' actions over the past three years destroyed the Company Defendant Fox founded, and has left Defendant Fox impecunious.

57. Defendant Fox is financially unable to engage counsel to represent him in this matter, and has had to move forward as a *pro se* litigant.

58. Plaintiff Simons' continued lies, perjured statements, misleading omissions, and false narratives have led to threats on Defendant Fox's life and for several "thugs" to show up at his mother-in-law's home in Southern California.

59. Plaintiff Simons, with his considerable resources, by and through his counsel, has sought to exploit the devastation he has caused through his improper Motion Practice.

60. Plaintiff Simons and his counsel, have repeatedly lied and then sought to obscure their falsehoods by taking the offensive with bogus Motions to Compel, Motions for Sanctions, etc.

61. Plaintiff-Simons repeated acts of perjury was not just to gain an edge economically in this Matter. He did so to get Defendant Fox criminally prosecuted. While many cases of perjury go unpunished, the egregiousness of Plaintiff-Simons perjury warrants criminal prosecution.

62. This litigation is tainted by lies and fraud put forth by both Mr. Simons and enabled by his counsel. Such egregious efforts to mislead and gratuitously inflict harm should not go unpunished.

63. In this case, because of the intentional perjury, and discovery abuses no sanction short of default judgment is appropriate. Neither this Court nor Defendant Fox should be forced to endure any further lies or deceit perpetrated in bad faith and unlawfully

by Plaintiff-Simons, by and through his counsel, in order to attempt to maliciously damage Defendant Fox any further. As such, this Court should not permit the case to proceed any further.

> "False testimony in a formal proceeding is intolerable. We must neither reward nor condone such a 'flagrant affront' to the truth-seeking function of adversary proceedings . . . Perjury should be severely sanctioned in appropriate cases." *ABF Freight Sys., Inc. v. N.L.R.B.*, 510 U.S. 317, 323, 114 S. Ct. 835, 839, 127 L. Ed. 2d 152 (1994).
>
> "The instant case represents precisely the situation where one party's conduct so violates the judicial process that imposition of a harsh penalty is appropriate not only to reprimand the offender, but also to deter future parties from trampling upon the integrity of the court." *Dotson v. Bravo*, 321 F.3d 663 (7th Cir. 2003)
>
> "Until discovered, [perjury] infects all of the pretrial procedures, and interferes 'egregiously with the court's administration of justice.' Acts of perjury seriously undermine the very core of the judicial system[.] Further, perjury is a crime punishable by up to five years in prison. *See* 18 U.S.C. § 1621." *Dotson v. Bravo*, 202 F.R.D. 559, 575 (N.D. Ill. 2001) *aff'd*, 321 F.3d 663 (7th Cir. 2003) (sanctioning party for intentionally providing false and misleading answers on a continual basis during discovery) (citation omitted).
>
> "Further, a sanction short of default would not appropriately address the goals of deterrence and punishment...Finally, the Court notes that, even if default is a "draconian" sanction, *Barnhill*, 11 F.3d at 1367, courts have frequently determined that default is appropriate in cases in which parties have exhibited extensive patterns or repeated incidents of misconduct. *See, e.g.*, *Greviskes v. Universities Research Ass'n, Inc.*, 417 F.3d 752, 759 (7th Cir. 2005) (upholding dismissal where plaintiff compounded initial fraud by attempting "to hide such behavior behind a cloak of further fraud and deceit"); *Alexander*, 930 F. Supp. 2d at 961 (dismissing case after revelation of "pervasive" perjury); *REP MCR Realty*, 363 F. Supp. 2d at 1010-11 (N.D. Ill. 2005) (dismissal appropriate where party "destroyed significant documents and committed perjury"); *Dotson*, 202 F.R.D. at 575 (dismissing case when party provided "misleading answers on a continual basis" and "also committed perjury"); *Brady v. United States*, 877 F. Supp. 444, 452-53 (C.D. Ill. 1994) (dismissing case where party offered incomplete interrogatory answers and repeatedly perjured himself)." Malibu Media, LLC v. Kelley Tashiro, N. Charles Tashiro No. 1:13-cv-00205. (S.D. In) May 18, 2015.

CONCLUSION

64. For the foregoing reasons, Defendant Fox respectfully requests this Court to enter an Order with the following sanctions:

- Default judgment against Simons for Count IV of Defendant Fox's First Amended Counterclaim;
- Monetary award to be determined in a future hearing on damages;
- Dismissal of all of Simons Counts that are currently pending in this matter against Defendant Fox;
- Reimbursement of all reasonable fees and expenses paid by Defendant-Fox in this matter;
- Referral to the U.S. Attorney for the Northern District of Illinois for an investigation of multiple act of perjury by Paul M. Simons;
- Any other sanctions as determined appropriate by this Honorable Court.

Dated: September 9, 2016

Respectfully submitted,

/s/ *Joseph Fox*

Joseph J. Fox, Defendant

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1
Eastern Division

Paul Simons

Plaintiff,

v.

Case No.: 1:14–cv–00309
Honorable Harry D. Leinenweber

Ditto Trade, Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, September 13, 2016:

MINUTE entry before the Honorable Harry D. Leinenweber:Motion hearing held. Defendant is given an extension of time to 9/16/2016 to file a response to plaintiff's motion for sanctions [181]. Rule to show cause hearing date of 9/22/2016 is reset to 10/5/2016 at 09:30 AM. Defendant's motion to stay[183] is taken under advisement. Plaintiff is given to 9/20/2016 to file a response. Defendant is given to 9/27/2016 to file a reply. Rule to show cause hearing date of 9/22/2016 is reset to 10/5/2016 at 09:30 AM. Defendant's motions for sanctions[189] and motion for sanctions[192] are denied. Hearing on defendant's motion to stay [183] is set for 10/5/2016 at 09:30 AM.Mailed notice(jms,)

EXHIBIT 27

Card Player Magazine

Career Titles 2
Career Cashes 19
Total Career Cash $170,551

Yosef Fox Poker Results

Date	Event	Buy-in	Place	Winnings
Aug 10, '16	2016/2017 WPT Legends of Poker	$200	133	$630
Dec 07, '15	2015 Five Diamond Classic (WPT)	$500	1	$41,389
Aug 28, '15	2015 Legends of Poker (WPT)	$1,000	7	$2,020
Aug 25, '15	2015 Legends of Poker (WPT)	$130	256	$805
Jul 14, '15	2015 World Series of Poker	$10,000	100	$46,890
Apr 20, '15	2015 Liz Flynt Spring Poker Classic	$275	47	$1,000
Apr 14, '15	2015 Liz Flynt Spring Poker Classic	$160	68	$1,050
Jul 15, '14	2014 Summer Poker Series	$50	6	$29,730
Apr 05, '14	2014 Winnin' o' the Green (WSOPC)	$160	128	$800
Apr 01, '14	2014 Winnin' o' the Green (WSOPC)	$160	12	$22,030
Aug 14, '13	2013 WPT Legends of Poker	$160	241	$1,000
May 18, '13	2013 California State Poker Championship	$1,100	5	$2,300
Nov 08, '12	2012 L.A. Poker Open	$550	2	$11,940
Aug 16, '12	2012 WPT Legends of Poker	$125	60	$2,200
May 13, '12	2012 California State Poker Championship	$150	101	$400
Jan 01, '12	2012 WSOP Circuit - The Bike	$125	1	$3,337
May 15, '11	2011 California State Poker Championship	$125	146	$400
Oct 10, '10	2010 Big Poker Oktober	$200	38	$1,230
Jul 26, '10	2010 Larry Flynt's Grand Slam of Poker	$200	23	$1,400