

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-17342

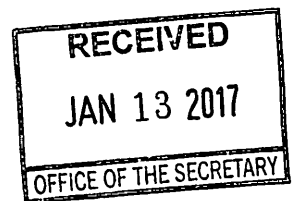
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In the Matter of

RD LEGAL CAPITAL, LLC and  
RONI DERSOVITZ

MOTION OF NON-PARTIES  
ALAN MANTELL AND  
ARTHUR SINENSKY TO  
QUASH OR MODIFY  
SUBPOENAS

-----X



Dated: New York, New York  
January 12, 2017

Jeffrey S. Boxer  
CARTER LEDYARD & MILBURN LLP  
2 Wall Street  
New York, New York 10005  
(212) 732-3200  
[www.clm.com](http://www.clm.com)

*Counsel for Non-Parties Alan Mantell and  
Arthur Sinensky*

Pursuant to Rules 232(e) and 233(a)(5) of the Securities and Exchange Commission Rules of Practice, non-parties Alan Mantell and Arthur Sinensky respectfully request an order quashing or modifying subpoenas issued for them to provide deposition testimony and produce documents.

### BACKGROUND

Mr. Mantell and Mr. Sinensky directly or indirectly invested in funds offered by the Respondents. On the afternoon of Friday, January 6, 2017, counsel for Messrs. Mantell and Sinensky received an email from counsel for the Respondents attaching notices of depositions for Messrs. Mantell and Sinensky. The deposition notices stated that the Respondents intend to depose Mr. Mantell on January 17 and Mr. Sinensky on January 18. The deposition notices did not refer to production of documents. Copies of the deposition notices are attached hereto as Exhibit A.

Prior to Friday, January 6, 2017, counsel for the Respondents had not previously informed counsel for Messrs. Mantell and Sinensky that the Respondents were seeking to depose Messrs. Mantell and Sinensky, nor had counsel for the Respondents ascertained the availability of Mr. Mantell or Mr. Sinensky to be deposed. Promptly after receiving the email attaching the depositions notices, counsel for Messrs. Mantell and Sinensky notified counsel for the Respondents by email that same afternoon that Mr. Mantell would be out of the state on January 17 and thus was not available to be deposed on that date. Counsel for the Respondents did not respond to this email and apparently took no steps to try to change the date for Mr. Mantell's deposition.

On Monday, January 9, 2017, counsel for Messrs. Mantell and Sinensky received an email from counsel for the Respondents attaching subpoenas signed by Administrative Law

Judge Foelak for Messrs. Mantell and Sinensky to be deposed on January 17 and 18, respectively, and to produce several categories of documents on or before the date of their depositions. Copies of the subpoenas are attached hereto as Exhibit B.

Mr. Mantell, a New York resident, is currently on a long-planned annual trip to California with his wife. A primary purpose of this trip is for Mr. Mantell to visit his mother-in-law who is over 90 years old and lives in California. Mr. Mantell will be in California until approximately January 29, 2017. Accordingly, Mr. Mantell is not available to be deposed on January 17 (or any other time before January 30). Despite having notice of this, counsel for Respondents did not reach out to Mr. Mantell's counsel about the timing of the deposition. Instead, after Mr. Mantell's counsel received the subpoenas and reached out to counsel for Respondents, counsel for Mr. Mantell and Respondents spoke on January 10. Mr. Mantell's counsel suggested rescheduling Mr. Mantell's deposition for February 1 or 2, once Mr. Mantell has returned to New York. Counsel for Respondents stated that they were amenable to deposing Mr. Mantell on February 1 or 2, but that the order granting them permission to depose Mr. Mantell provided that the deposition must be completed on or before January 20. Counsel for Respondents thus refused to agree to reschedule Mr. Mantell's deposition or withdraw the subpoena.<sup>1</sup>

Counsel for Messrs. Mantell and Sinensky and for Respondents also discussed the document requests in the subpoenas. As discussed below, counsel for Respondents agreed to narrow the time frame for some of the requests but did not otherwise withdraw or modify the document requests.

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<sup>1</sup> The subpoena for Mr. Sinensky states that he will be deposed on January 18. Mr. Sinensky is not available that day, but counsel for Mr. Sinensky and for Respondents have agreed that Mr. Sinensky can be deposed on January 17.

As discussed further below, Mr. Mantell respectfully requests that the portion of the subpoena relating to his deposition be (a) quashed, or, in the alternative, (b) modified to permit his deposition to take place on or before February 6, 2017. As discussed further below, Mr. Mantell and Mr. Sinensky respectfully request that the document requests in the subpoenas be quashed or significantly modified.

### LEGAL STANDARD

SEC Rule of Practice 232(e)(2) provides that “[i]f compliance with the subpoena or notice of deposition would be unreasonable, oppressive, unduly burdensome or would unduly delay the hearing, the hearing officer or the Commission shall quash or modify the subpoena or notice, or may order a response to the subpoena, or appearance at a deposition, only upon specified conditions.” This standard also applies to motions to quash or modify deposition notices. *See* SEC Rule of Practice 233(a)(5) (“The Commission or hearing officer may rule on a motion that a deposition noticed under paragraph (a)(1) or (2) of this section shall not be taken upon a determination under §201.232(e).”).

### DISCUSSION

#### I. Mr. Mantell’s Deposition Should Be Quashed or Delayed

The deposition notice and the portion of the subpoena setting a deposition for Mr. Mantell should be quashed entirely or, in the alternative, modified to permit his deposition to take place at a later date since the deposition as currently scheduled would be unreasonable, oppressive and unduly burdensome. Mr. Mantell is currently out of the state and on the other side of the country on a long-planned trip to visit his elderly mother-in-law. He is not scheduled to return to New York until the end of January. Respondents apparently did not include Mr. Mantell as one of the five depositions to which they are entitled under the applicable rules, and

then waited until late December to seek permission to depose Mr. Mantell. Respondents made their application to depose Mr. Mantell without checking on Mr. Mantell's availability.

Similarly, they made no effort to ascertain Mr. Mantell's availability prior to sending him a deposition notice and did not take any action after they were promptly informed that Mr. Mantell was not available on the date on which they had noticed the deposition. Given these circumstances, it would be unreasonable, oppressive and unduly burdensome to require Mr. Mantell to be deposed during the week of January 16.

If the subpoena and notice of deposition for Mr. Mantell are not quashed entirely, then at the very least the notice of deposition and subpoena should be modified to allow the deposition to take place the week of February 1. While the hearing in this matter is scheduled for mid-March, conducting a single deposition in the first few days of February should not unduly interfere with or delay the hearing.

## II. The Document Requests in the Subpoena Should Be Quashed or Modified

The document requests in the subpoenas should be quashed or substantially modified because they are unreasonable, oppressive and unduly burdensome under the circumstances because Messrs. Mantell and Sinensky would have just days to search for, review and produce documents, because the subpoenas impose an unwarranted burden on two individuals who invested (directly or indirectly) in funds offered by the Respondents, and because many of the documents sought can be obtained by Respondents from the SEC, are already in the possession of Respondents, are privileged and are of limited, if any, relevance.

The timing of the subpoenas alone renders the document requests unreasonable, oppressive and unduly burdensome. The signed subpoenas were emailed to counsel for the witnesses on Monday, January 9 and purport to require Messrs. Mantell and Sinensky to produce

documents on or before Tuesday, January 17 or Wednesday, January 18, respectively. January 14 is a Saturday, January 15 is a Sunday and January 16 is a state and federal holiday. This means that Messrs. Mantell and Sinensky would have only four or five business days to search for, review, and produce documents in response to seven different document requests covering several years. This short time frame within which to respond to the subpoenas is not reasonable and would impose an unwarranted burden on Mr. Mantell and Mr. Sinensky. If the Respondents wanted documents from Mr. Mantell or Mr. Sinensky, then they should not have waited until the last minute to seek those documents.

Responding to the document requests in the subpoena also will be unduly burdensome for Mr. Mantell and Mr. Sinensky because both are individuals who are not parties to this proceeding. Producing the requested documents would require both of them to undertake extensive searches of computer and hard copy files going back several years. Neither Mr. Mantell nor Mr. Sinensky has any significant experience conducting electronic searches of the type that could be required to try to locate some of the communications sought in the document requests. As non-parties, neither should be required to incur the additional, unjustified costs of retaining an outside expert or having counsel conduct these types of searches for them.

Finally, the specific document requests themselves are objectionable since they seek documents that Respondents can obtain from the SEC, that are already in the possession of Respondents, that are privileged, and that are likely to be of limited, if any, relevance.

First, the subpoenas seek all communications between Mr. Mantell, Mr. Sinensky or their counsel on the one hand and the SEC on the other hand about the Respondents, the funds the Respondents offered, or this proceeding (Subpoena Requests 1-3). It goes without saying that the SEC has copies of these documents. Accordingly, Respondents should seek to obtain these

documents directly from the SEC instead of burdening non-parties like Mr. Mantell and Mr. Sinensky. When counsel for Messrs. Mantell and Sinensky raised this issue with Respondents' counsel, Respondents' counsel conceded that the SEC already had produced communications of this type through July 2016 and that Respondents would therefore narrow the requests in the subpoenas to cover communications dated after July 2016. Initially, this begs the question of why subpoenas with document requests to non-parties sought documents that had already been provided to the Respondents by the SEC. More importantly, this confirms that if the Respondents want production of additional communications between the SEC and third parties like Mr. Mantell and Mr. Sinensky, then they should obtain them directly from the SEC.

Second, the subpoenas seek all notes or recordings of any meetings or calls that Mr. Mantell, Mr. Sinensky or their counsel had with the SEC regarding the Respondents, their funds or this proceeding (Subpoena Request 4). It is the understanding of Messrs. Mantell and Sinensky that the SEC took notes of any meetings or calls between Mr. Mantell or Mr. Sinensky and the SEC. Accordingly, Respondents should seek to obtain notes of any such meetings or calls directly from the SEC instead of burdening non-parties with this request. Moreover, neither Mr. Mantell nor Mr. Sinensky have any notes of meetings or calls with the SEC, and neither Mr. Mantell nor Mr. Sinensky nor their counsel have any recordings of meetings or calls with the SEC. Their counsel has notes from meetings and calls with the SEC in which counsel participated, but those notes reflect counsel's views, conclusions and legal skill and are protected from discovery pursuant to the attorney-work product and similar privileges.

Third, the subpoenas seek all communications between Mr. Mantell, Mr. Sinensky or their counsel on the one hand and any other person on the other hand regarding the Respondents, their funds or this proceeding (Subpoena Request 5). This request is overbroad and does not

even purport to focus on issues relevant to the instant proceeding. Instead, it seeks production of any and all communications that so much as mention or refer to either Respondent or their funds regardless of the parties to those communications (apparently including privileged communications with counsel), the dates of those communications or the content of those communications. To the extent Mr. Mantell, Mr. Sinensky or their counsel communicated with the Respondents, then the Respondents already have those communications. To the extent Mr. Mantell, Mr. Sinensky or their counsel communicated with the SEC, then the Respondents either already have those communications or can get them from the SEC. To the extent Mr. Mantell or Mr. Sinensky communicated with their counsel about the Respondents or their funds, then those communications will be protected by (among other things) the attorney-client privilege. To the extent Mr. Mantell or Mr. Sinensky may have had occasional communications about Respondents or their funds with individuals or entities other than the Respondents, the SEC or their counsel, it would be unnecessary and burdensome to compel them to conduct extensive searches for those communications, particularly since there is no reason to believe those communications they would be relevant to the current dispute.

Fourth, the subpoenas seek notes or recordings of any meetings or calls that Mr. Mantell, Mr. Sinensky or their counsel had with any other person regarding the Respondents, their funds or this proceeding (Subpoena Request 6). Again, this is extremely broad and would include counsel's notes which are protected by privilege.

Finally, the subpoenas seek any "due diligence file on" or any other documents relating to the Respondents or their funds (Subpoena Request 7). This "catch all" request subsumes all the other requests by seeking production of every document of any type relating to the Respondents or their funds. This request seeks documents Respondents previously provided to

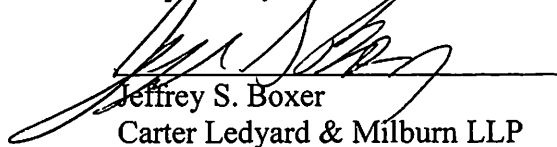


Mr. Mantell or Mr. Sinensky (including subscription documents, periodic financial statements, etc.) and communications between Respondents and Mr. Mantell and Mr. Sinensky (including routine notices or emails sent by Respondents to investors). Eliminating these types of clearly irrelevant or unnecessary documents renders this request largely duplicative of the other six requests in the subpoenas. This request clearly is not tailored to target potentially relevant, meaningful evidence and is overbroad and burdensome, particularly under the circumstances here.

### CONCLUSION

For the reasons discussed above, the subpoena and deposition notice issued to Mr. Mantell should be (a) quashed or (b) modified to permit his deposition to take place on or before February 6, 2017 and the document requests in the subpoenas issued to both Mr. Mantell and Mr. Sinensky should be quashed.

Respectfully submitted,



Jeffrey S. Boxer  
Carter Ledyard & Milburn LLP  
2 Wall Street  
New York, NY 10005  
212-732-3200

*Counsel for Alan Mantell and Arthur Sinensky*

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

ADMINISTRATIVE PROCEEDING  
File No. 3-17342

In the Matter of

RD LEGAL CAPITAL, LLC and  
RONI DERSOVITZ

**NOTICE OF DEPOSITION**

Date: January 17, 2017  
Time: 10:00 a.m.  
Place: Hughes Hubbard & Reed LLP  
One Battery Park Plaza  
New York, NY 10004

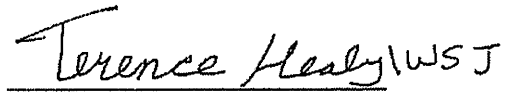
Witness: Alan Mantell

NOTICE IS HEREBY GIVEN pursuant to Rule 233 of the Rules of Practice of the U.S. Securities and Exchange Commission that RD Legal Capital, LLC and Roni Dersovitz will take the deposition of Alan Mantell, 15 Old Mill River Road, Pound Ridge, NY 10576. The deposition will take place at the offices of Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, NY 10004 beginning at 10:00 a.m. on January 17, 2017. The deposition officer will be provided by TSG Reporting, Inc. and will be authorized to administer the oath. The deposition will be recorded by video and stenographic means.

The witness is a fact witness. All parties are invited to attend and examine the witness.

Dated: January 6, 2017

Respectfully submitted,

 Terence Healy | WSJ

Roel C. Campos  
Terence M. Healy  
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*Counsel for RD Legal Capital, LLC and  
Roni Dersovitz*

David K. Willingham  
Michael D. Roth  
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Los Angeles, CA 90017-5524  
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*Counsel for Roni Dersovitz*

**CERTIFICATE OF SERVICE**

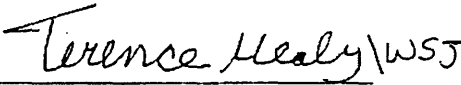
The undersigned certifies that the foregoing Notice of Deposition was served on this 6<sup>th</sup> day of January 2017 by U.S. Postal Service on the Office of the Secretary and by electronic mail and U.S. Postal Service on the following counsel:

Michael D. Birnbaum  
Securities and Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street  
New York, NY 10281

Jorge Tenreiro  
Securities and Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street  
New York, NY 10281

Victor Suthammanont  
Securities and Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street  
New York, NY 10281

Jeffrey S. Boxer  
Carter Ledyard & Milburn LLP  
2 Wall Street  
New York, NY 10005

  
Terence Healy  
Terence Healy



**SUBPOENA DUCES TECUM TO APPEAR AND TESTIFY AT  
DEPOSITION AND PRODUCE DOCUMENTS**

Issued Pursuant to U.S. Securities and Exchange Commission Rules of  
Practice 111(b) and 232, 17 C.F.R. §§ 201.111(b), 201.232.

<p>1. TO Arthur Sinensky 20 Country Club Way Demarest, NJ 07627 c/o Jeffrey Boxer Carter Ledyard &amp; Millburn LLP 2 Wall Street New York, NY 10005</p>	<p>This subpoena requires you to testify at a deposition and produce the documents on the attached addendum, at the date and time specified in Item 4, at the request of the Party and/or Counsel described in Item 6, in this U.S. Securities and Exchange Commission Administrative Proceeding described in Item 5.</p>
<p>2. PLACE OF DEPOSITION AND DOCUMENT PRODUCTION Hughes Hubbard &amp; Reed LLP One Battery Park Plaza New York, NY 10004</p>	<p>3. YOUR TESTIMONY AT THE DEPOSITION WILL BE BEFORE  TSG Reporting, Inc.  Deposition Officer</p>
<p>5. TITLE OF THE MATTER AND ADMINISTRATIVE PROCEEDING NUMBER In the matter of RD Legal Capital, LLC, et al. – File No. 3-17342</p>	<p>4. DATE AND TIME OF TESTIMONY, AND DOCUMENT PRODUCTION (testimony may also be required on subsequent dates) January 18, 2017 at 10:00 am</p> <p>6. PARTY AND COUNSEL REQUESTING ISSUANCE OF SUBPOENA Terence M. Healy Hughes Hubbard &amp; Reed LLP  Counsel for Respondents</p>

<p>DATE SIGNED <i>Jan. 9, 2017</i></p>	<p>SIGNATURE OF ADMINISTRATIVE LAW JUDGE OR DESIGNATED OFFICER OF THE U.S. SECURITIES AND EXCHANGE COMMISSION <i>Carol Fox Foelak</i></p>
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**GENERAL INSTRUCTIONS**

<p><b>MOTION TO QUASH</b> The U.S. Securities and Exchange Commission's Rules of Practice require that any application to quash or modify a subpoena comply with Commission Rule of Practice 232(e)(1). 17 C.F.R. § 201.232(e)(1).</p>	<p><b>TRAVEL EXPENSES</b> Witness fees and mileage will be paid by the party at whose instance the witness appears. 17 C.F.R. § 201.232(f).</p>
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**ADDENDUM TO SUBPOENA DUCES TECUM**

**DOCUMENTS TO BE PRODUCED**

1. All communications between Arthur Sinensky (“You” or “Your”) and the Securities and Exchange Commission (“SEC”) related in any way to Roni Dersovitz; RD Legal Capital, LLC; RD Legal Funding Partners, LP; RD Legal Funding Offshore Fund, Ltd.; RD Legal Special Opportunities Partners I, LP; or RD Legal Special Opportunities Offshore Fund I, LP (collectively, “RD Legal”).
2. All communications between You and the SEC related in any way to the above-captioned SEC administrative proceeding that has been brought against Roni Dersovitz and RD Legal Capital, LLC, Administrative File No. 3-17342 (the “Administrative Proceeding”).
3. All communications between any legal counsel representing You and the SEC related in any way to RD Legal, or the Administrative Proceeding.
4. All notes related to, or recordings of, any meetings, telephone calls, or other communications You and/or your legal counsel had with the SEC related to RD Legal, or the Administrative Proceeding.
5. All communications between You or any legal counsel representing You and any other person, including, but not limited to, any investor or potential investor in RD Legal, related in any way to RD Legal, or the Administrative Proceeding.
6. All notes related to, or recordings of, any meetings, telephone calls, or other communications You and/or your legal counsel had with any other person related to RD Legal, or the Administrative Proceeding.
7. Your due diligence file on RD Legal and/or any other documents related to RD Legal.



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DEPOSITION AND PRODUCE DOCUMENTS**

Issued Pursuant to U.S. Securities and Exchange Commission Rules of  
Practice 111(b) and 232, 17 C.F.R. §§ 201.111(b), 201.232.

<p>1. TO Alan Mantell 15 Old Mill River Road Pound Ridge, NY 10576 c/o Jeffrey Boxer Carter Ledyard &amp; Millburn LLP 2 Wall Street New York, NY 10005</p>	<p>This subpoena requires you to testify at a deposition and produce the documents on the attached addendum, at the date and time specified in Item 4, at the request of the Party and/or Counsel described in Item 6, in this U.S. Securities and Exchange Commission Administrative Proceeding described in Item 5.</p>
<p>2. PLACE OF DEPOSITION AND DOCUMENT PRODUCTION Hughes Hubbard &amp; Reed LLP One Battery Park Plaza New York, NY 10004</p>	<p>3. YOUR TESTIMONY AT THE DEPOSITION WILL BE BEFORE  TSG Reporting, Inc.  Deposition Officer</p>
	<p>4. DATE AND TIME OF TESTIMONY, AND DOCUMENT PRODUCTION (testimony may also be required on subsequent dates) January 17, 2017 at 10:00 am</p>
<p>5. TITLE OF THE MATTER AND ADMINISTRATIVE PROCEEDING NUMBER In the matter of RD Legal Capital, LLC, et al. – File No. 3-17342</p>	<p>6. PARTY AND COUNSEL REQUESTING ISSUANCE OF SUBPOENA Terence M. Healy Hughes Hubbard &amp; Reed LLP  Counsel for Respondents</p>

<p>DATE SIGNED <i>Jan. 9, 2017</i></p>	<p>SIGNATURE OF ADMINISTRATIVE LAW JUDGE OR DESIGNATED OFFICER OF THE U.S. SECURITIES AND EXCHANGE COMMISSION <i>Carol Fox Toelch</i></p>
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**ADDENDUM TO SUBPOENA DUCES TECUM**

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1. All communications between Alan Mantell and/or any persons associated with Mantell Advisory (collectively, "You" or "Your") and the Securities and Exchange Commission ("SEC") related in any way to Roni Dersovitz; RD Legal Capital, LLC; RD Legal Funding Partners, LP; RD Legal Funding Offshore Fund, Ltd.; RD Legal Special Opportunities Partners I, LP; or RD Legal Special Opportunities Offshore Fund I, LP (collectively, "RD Legal").
2. All communications between You and the SEC related in any way to the above-captioned SEC administrative proceeding that has been brought against Roni Dersovitz and RD Legal Capital, LLC, Administrative File No. 3-17342 (the "Administrative Proceeding").
3. All communications between any legal counsel representing You and the SEC related in any way to RD Legal, or the Administrative Proceeding.
4. All notes related to, or recordings of, any meetings, telephone calls, or other communications You and/or your legal counsel had with the SEC related to RD Legal, or the Administrative Proceeding.
5. All communications between You or any legal counsel representing You and any other person, including, but not limited to, any investor or potential investor in RD Legal, related in any way to RD Legal, or the Administrative Proceeding.
6. All notes related to, or recordings of, any meetings, telephone calls, or other communications You and/or your legal counsel had with any other person related to RD Legal, or the Administrative Proceeding.
7. Your due diligence file on RD Legal and/or any other documents related to RD Legal.



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ADMINISTRATIVE PROCEEDING  
File No. 3-17342

In the Matter of

RD LEGAL CAPITAL, LLC and  
RONI DERSOVITZ

**NOTICE OF DEPOSITION**

Date: January 18, 2017  
Time: 10:00 a.m.  
Place: Hughes Hubbard & Reed LLP  
One Battery Park Plaza  
New York, NY 10004

Witness: Arthur Sinensky

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The witness is a fact witness. All parties are invited to attend and examine the witness.

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Respectfully submitted.

Terence Healy \WSJ

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*Counsel for RD Legal Capital, LLC and  
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*Counsel for Roni Dersovitz*

**CERTIFICATE OF SERVICE**

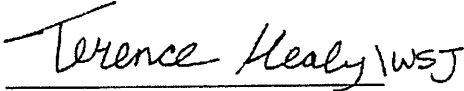
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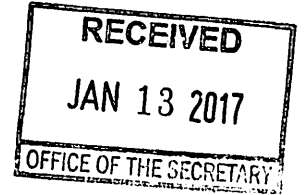
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Terence Healy

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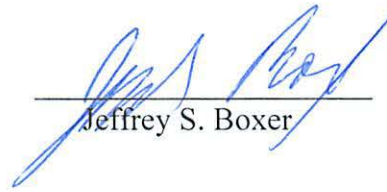
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Dated: January 12, 2017

  
\_\_\_\_\_  
Jeffrey S. Boxer