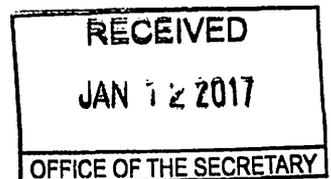


HARD COPY



UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17387

In the Matter of

**DONALD F. ("JAY") LATHEN, JR.,
EDEN ARC CAPITAL
MANAGEMENT, LLC,
and EDEN ARC CAPITAL ADVISORS,
LLC,**

Respondents.

DECLARATION OF JUDITH WEINSTOCK

I, Judith Weinstock, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am employed as an Assistant Regional Director in the Division of Enforcement (the "Division"). I submit this declaration in support of the Division's Motion *In Limine* to Preclude Irrelevant Evidence and Argument Regarding Reliance on Advice of Counsel, or in the Alternative, to Preclude Respondents from Offering Evidence of Uncorroborated Attorney Advice and Evidence of Advice from Attorneys not on Respondents' October 25, 2016 List of Attorneys.

2. Attached hereto as Exhibit A is a true and correct copy of a letter from Harlan Protass to Hon. James E. Grimes, dated September 23, 2016.

3. Attached hereto as Exhibit B is a true and correct copy of a letter from Harlan Protass to Judith Weinstock, dated September 23, 2016.

4. Attached hereto as Exhibit C is a true and correct copy of a letter from Harlan Protass to Judith Weinstock, dated October 25, 2016.

5. With the exception of Kevin Galbraith, the Division interviewed (or, in the case of Daniel Hunter, received a voicemail from) the below attorneys in connection with Respondents' reliance on advice of counsel defense.

Attorneys on Respondents' Revised Witness List

Attorney	Retained	Advice on Disclosure Obligations	Opinion on Validity of Joint Tenancies
Daren Domina¹ Katten Muchin	Yes	Yes, that there would be disclosure issues	No. And advised that there would be issues about whether these were true joint tenancies.
Margaret Farrell Hinckley Allen²	Yes	Yes, that he should disclose	No. To the contrary—that joint tenancies created under the IMA structure were invalid.
Robert Flanders³ Hinckley Allen	Yes	No	No
Kevin Galbraith⁴	Yes	?	?
Robert Grundstein⁵ Katten Muchin	Yes	No	No
Bruce Hood⁶ Wiggin & Dana	Yes	No	No

¹ Mr. Domina appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Domina on November 15, 2016. He stated that in 2009 he advised against Respondents' investment scheme, before the Fund was even set up. He told Lathen that the investment strategy was a bad idea and that it would invite scrutiny by both the regulators and the issuers. He further stated that Lathen's interactions with issuers would raise disclosure issues.

² Ms. Farrell appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Ms. Farrell on December 16, 2016 (the "Farrell Interview").

³ Mr. Flanders appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Flanders on September 28, 2016 and December 30, 2016.

⁴ Kevin Galbraith, who represents Mr. Lathen in a private litigation, has declined to be interviewed by the Division attorneys. It should be noted that Galbraith was not listed on Respondents' September 23, 2016 letter indicating the attorneys with whom Respondents relied on "concerning and relating to the structure of, and structuring of, the Eden Arc Respondents' investment strategy." (Ex. B (Letter from Harlan Protass to Judith Weinstock, Sept. 23, 2016).)

⁵ Mr. Grundstein appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Grundstein on November 10, 2016.

⁶ Mr. Hood appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Hood on November 15, 2016. Bruce Hood is a tax attorney.

Jason Neroulias ⁷ Bleakley Platt & Schmidt	No	No	No
David Robbins ⁸ Kaufmann Gildin & Robbins	Yes	No	No
Eric Roper ⁹ Gerstein Savage	Yes	No	No
Paul Sarkozi ¹⁰ Tannenbaum Helpern Syracuse & Hirschtritt	No	No	No
Michael Tannenbaum ¹¹ Tannenbaum Helpern Syracuse & Hirschtritt	No	No	No
Beth Tractenberg ¹² Katten Muchin	Yes	No	No
Dianne Zeydel ¹³ Greenberg Traurig	No	No	No

Additional Attorneys on Respondents' October 25, 2016 "Attorney List"

Attorney	Retained	Advice on Disclosure Obligations	Opinion on Validity of Joint Tenancies
Daniel Hunter ¹⁴ Schulte Roth & Zabel	No	No	No
Peter Pront ¹⁵ Seward & Kissel	No	No	No
Cherryl Calaguio ¹⁶	Yes	No	No

⁷ The Division interviewed Mr. Neroulias on November 28, 2016. Mr. Neroulias is a Trust and Estates attorney.

⁸ The Division interviewed Mr. Robbins on December 8, 2016. He stated that he represented Mr. Lathen for approximately one month in 2010.

⁹ Mr. Roper appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Roper on September 8, October 14, and December 23, 2016.

¹⁰ The Division interviewed Mr. Sarkozi on December 9, 2016.

¹¹ Mr. Tannenbaum appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Tannenbaum on December 15, 2016.

¹² The Division interviewed Ms. Tractenberg on November 17, 2016.

¹³ The Division interviewed Ms. Zeydel on November 16, 2016.

¹⁴ The Division received a substantive voicemail from Mr. Hunter on November 15, 2016.

¹⁵ Mr. Pront appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Mr. Pront on November 22, 2016.

¹⁶ Ms. Calaguio appeared on Respondents' Oct. 25, 2016 list of attorneys. The Division interviewed Ms. Calaguio on November 21, 2016.

Attorney	Retained	Advice on Disclosure Obligations	Opinion on Validity of Joint Tenancies
Gersten Savage			

6. In 2012, Ms. Farrell told Lathen: “Representations to third parties, including broker-dealers, must not misrepresent Participants’ contact information, Participants’ finances, Participants’ investment history, or the nature of the relationship between Participants and you and/or EndCare. Further, such representations should not misrepresent the nature or intent of the Program.” (SEC-Respondents-E-0000176-95, at 181, attached hereto as Exhibit D.) In the closing paragraphs of the same memorandum, she said: “The risk of such claims can best be managed by assuring that all parties involved (including Participants, broker dealers and investors) receive complete information regarding the purpose and nature of the Program and that you document their receipt of such written materials.” (Id. at 182.)

7. In the Farrell Interview, Ms. Farrell said that she did not mean to exclude issuers from her list of third parties to whom Respondents must make full disclosure, nor did she ever advise Lathen that he should not make full disclosure to them.¹⁷ Further, according to Ms. Farrell, the joint tenancies under the Investment Management Agreement structure made the Fund, not Lathen, the co-owner on the accounts. And since in Hinckley Allen’s view, an entity could not be a joint tenant under New York law, any joint tenancies created under that structure were not valid. Farrell advised Lathen of that fact sometime in late 2012 and thereafter proceeded to advise him on creating a new structure to cure that defect, resulting in the creation of the Discretionary Line Agreement by which the Fund loaned money to Lathen (and later to Lathen and the Participants), who then formed joint tenancies with the Participants, and the

¹⁷ Indeed, that advice was consistent with what Lathen had been told by Katten Muchin back in 2009 when he first sought advice about his strategy.

Profit Sharing Agreement, which obligated Lathen to share all profits with the Fund. The Profit Sharing Agreement states that all Participant Agreements signed under the Investment Management Agreement continue to be governed by the Investment Management Agreement.

8. Notwithstanding this conversation with Ms. Farrell, Lathen proceeded to redeem securities held in joint tenancy with various Participants whose joint tenancy accounts had been created under the old structure, and continued to do so through 2014. Attached hereto as an example are Exhibit E, a copy of a Participant Agreement between Donald Lathen and Adolph Pratola, and Exhibit F, an example of a Pratola redemption letter sent to an issuer by Lathen in 2014, which was subsequent to the receipt of the advice from Hinckley Allen.

9. Exhibit 1341 on Respondents' Exhibit List is a recording of a voicemail message sent from Peter Pront to Michael Cooney. A transcript of that voicemail is attached hereto as Exhibit G.

10. Attached hereto as Exhibit H is a true and correct copy of an excerpt of Donald Lathen's investigative testimony, dated July 23, 2016.

11. Attached hereto as Exhibit I is a true and correct copy of an email from Jay Lathen to Darren Kane, dated February 23, 2015.

12. Attached hereto as Exhibit J is a true and correct copy of a privilege log provided by Mark Hyland of Seward & Kissel to the Division.

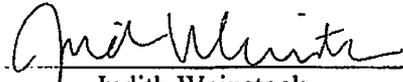
13. Attached hereto as Exhibit K is a true and correct copy of Respondents' December 15, 2016 Amended Witness List.

14. Exhibits 1017 through 1022 on Respondents' Exhibit List are Schulte Roth & Zabel's production of documents to the Division in Response to the Division's subpoena.

15. Nearly 750 communications on Respondents' Exhibit List are communications with law firms and attorneys.

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

Executed on January 11, 2017
New York, NY



Judith Weinstock

EXHIBIT A



305 Madison Avenue
New York, NY 10165
T: 212-922-1080
F: 212-949-8255

Harlan J. Protass
Partner
protass@clayro.com

September 23, 2016

VIA E-MAIL AND U.S. MAIL

Hon. James E. Grimes
Administrative Law Judge
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

Dear Judge Grimes:

This firm represents Donald F. Lathen, Jr., Eden Arc Capital Management, LLC and Eden Arc Capital Advisors, LLC (the "Eden Arc Respondents") in the referenced matter. Pursuant to the Order Following Prehearing Conference, dated September 13, 2016, we write to advise the Court that the Eden Arc Respondents intend to invoke the advice of counsel defense at the hearing in the referenced matter with respect to (and hereby waive the attorney-client privilege with respect to attorney-client communications, whether written, oral or electronic, concerning) the legal advice they received concerning and relating to the structure of, and structuring of, the Eden Arc Respondents' investment strategy.

Thank you for your attention to this matter.

Respectfully submitted,

/s/

Harlan Protass

cc: Judith Weinstock, Esq. (via e-mail)
Janna Berke, Esq. (via e-mail)
Alex Janghorbani, Esq. (via e-mail)
Nancy Brown, Esq. (via e-mail)

EXHIBIT B



305 Madison Avenue
New York, NY 10165
T: 212-922-1080
F: 212-949-8255

Harlan J. Protass
Partner
protass@clayro.com

September 23, 2016

VIA E-MAIL

Judith Weinstock, Esq.
U.S. Securities and Exchange Commission
New York Regional Office
Brookfield Place
200 Vesey Street, Suite 400
New York, NY 10281-1022

Re: In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

Dear Ms. Weinstock:

Per our conference call earlier today (and pursuant to the Order Following Prehearing Conference, dated September 13, 2016), we write to advise you that Donald F. Lathen, Jr., Eden Arc Capital Management, LLC and Eden Arc Capital Advisors, LLC (the "Eden Arc Respondents") intend to invoke the advice of counsel defense at the hearing in the referenced matter with respect to (and hereby waive the attorney-client privilege with respect to attorney-client communications, whether written, oral or electronic, concerning) the legal advice they received concerning and relating to the structure of, and structuring of, the Eden Arc Respondents' investment strategy.

In connection therewith, the Eden Arc Respondents relied on legal advice they received concerning and relating to the structure of, and structuring of, the Eden Arc Respondents' investment strategy from Margaret F. Farrell, Esq. and Robert G. Flanders, Jr., Esq. of Hinckley Allen & Snyder LLP. Ms. Farrell remains a Partner at Hinckley Allen & Snyder LLP. Mr. Flanders is now a Partner at Whelan, Corrente, Flanders, Kinder & Siket LLP. Contact information for Ms. Farrell and Mr. Flanders is:

Margaret D. Farrell, Esq.
Hinckley, Allen & Snyder LLP
100 Westminster Street, Suite 1500
Providence, RI 02903
T. 401-274-2000
mfarrell@hinckleyallen.com

Robert G. Flanders, Jr., Esq.
Whelan, Corrente, Flanders, Kinder & Siket LLP
100 Westminster Street, Suite 710
Providence, RI 02903
T. 401-270-0154
rflanders@whelencorrente.com

Additionally, the Eden Arc Respondents relied on legal advice they received concerning and relating to the structure of, and structuring of, the Eden Arc Respondents' investment strategy from Eric Roper, Esq. and Cherryl J. Calaguio, Esq. of Gersten Savage LLP, a law firm that no longer exists. Mr. Roper is now retired. Ms. Calaguio is now Counsel at Sichenzia Ross Friedman Farence LLP. Contact information for Mr. Roper and Ms. Calaguio is:

Eric Roper, Esq.
T. 917-535-0038
eric@ericroperesq.com

Cherryl J. Calaguio, Esq.
Sichenzia Ross Friedman Farence LLP
61 Broadway
New York, NY 10006
T. 212-930-9700
ccalaguio@srff.com

Finally, consistent with the invocation of the advice of counsel defense, attached to the e-mail with which this letter is sent is the initial production of attorney-client privileged communications with Ms. Farrell, Mr. Flanders, Mr. Roper and Ms. Calaguio. We will produce the attached communications to you in Concordance-ready production format during the week of September 26, 2016. Additionally, we will supplement the attached production of attorney-client privileged correspondence and/or documents consistent with the invocation of the advice of counsel defense detailed above during the week of September 26, 2016.

Please contact me if you have any questions concerning the foregoing or the attached.

Very truly yours,

/s/

Harlan Protass

Encls.

cc: Nancy Brown, Esq. (via e-mail w/ encls.)
Alex Janghorbani, Esq. (via e-mail w/ encls.)
Janna Berke, Esq. (via e-mail w/ encls.)

EXHIBIT C



305 Madison Avenue
New York, NY 10165
T: 212-922-1080
F: 212-949-8255

Harlan J. Protass
Partner
protass@clayro.com

October 25, 2016

VIA E-MAIL

Judith Weinstock, Esq.
U.S. Securities and Exchange Commission
New York Regional Office
Brookfield Place
200 Vesey Street, Suite 400
New York, NY 10281-1022

Re: In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

Dear Ms. Weinstock:

Pursuant to Judge Grimes' Order on Motion to Preclude Advice-of-Counsel Defense, dated October 18, 2016, enclosed please find a chart listing the names and contact information for every attorney (except for this firm and Brune Law P.C.) with whom Donald F. Lathen, Jr., Eden Arc Capital Management, LLC and Eden Arc Capital Advisors, LLC "consulted, at any time 'through approximately February 2016.' about 'the structure of and structuring of' the joint tenancies at issue in this case."

Very truly yours,

/s/

Harlan Protass

Encl.

cc: Nancy Brown, Esq. (via e-mail w/ encl.)
Alex Janghorbani, Esq. (via e-mail w/ encl.)
Janna Berke, Esq. (via e-mail w/ encl.)

October 25, 2016

In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

Attorney List

(Produced Pursuant to Order on Motion to Preclude
Advice-of-Counsel Defense, dated October 18, 2016)

<u>Name</u>	<u>Contact Information</u>
Kim Baptiste	Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 T: 212-756-2317 kim.baptiste@srz.com
Jonathan Blattmacher (formerly of Milbank Tweed Hadley & McCloy)	Pioneer Wealth Partners 515 Madison Avenue Suite 13B New York, NY 10022 T. 212-328-0312 jblattmachr@pioneerwealthpartners.com
Cherryl J. Calaguio (formerly of Gersten Savage LLP) <u>Please Note:</u> Ms. Calaguio has expressed a preference for e-mail communications through personal (i.e., gmail.com) e-mail address.	Sichenzia Ross Friedman Ference LLP 61 Broadway New York, NY 10006 T. 212-930-9700 [REDACTED]
Stephen DeRosa	DraftLaw https://www.draftlaw.com/ (No other contact information available)
Daren Domina (formerly of Katten Muchin Rosenman LLP)	Haynes and Boone, LLP 30 Rockefeller Plaza 26th Floor New York, NY 10112 T. 212-659-4963 daren.domina@haynesboone.com
Matthew Doring	Hinckley Allen & Snyder LLP 28 State Street Boston, MA 02109 T. 617-345-9000 mdoring@kinckleyallen.com

Margaret D. Farrell	Hinckley Allen & Snyder LLP 100 Westminster Street Suite 1500 Providence, RI 02903 T. 401-274-2000 mfarrell@hinckleyallen.com
Robert G. Flanders, Jr. (formerly of Hinckley Allen & Snyder LLP)	Whelan, Corrente, Flanders, Kinder & Siket LLP 100 Westminster Street Suite 710 Providence, RI 02903 T. 401-270-0154 rflanders@whelencorrente.com
Kevin Galbraith	Law Office of Kevin Galbraith 236 West 39th Street 5th Floor New York, NY 10001 T. 212-203-1249 kevin@kevingalbraithlaw.com
Rob Grundstein (formerly of Katten Muchin Rosenman LLP)	Sabby Capital Management 10 Mountainview Road Upper Saddle River, NJ 07458 T. 646-307-4500
Bruce Hood	Withers Bergman LLP 430 Park Avenue 10th Floor New York, NY 10022 bruce.hood@withersworldwide.com
Daniel Hunter	Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 T: 212-756-2201 daniel.hunter@srz.com
Jackie Mancini (formerly of Hinckley Allen & Snyder LLP)	(Contact information unknown)
Jessica Montello (formerly of Gersten Savage LLP)	Wilson Elser Moskowitz Edelman & Dicker 1133 Westchester Avenue White Plains, NY 10604 T. 914-872-7475 jessica.montello@wislonesler.com
Peter Pront	Seward and Kissel One Battery Park Plaza New York, NY 10004 T. 212-574-1221 pront@sewkis.com

Eric Roper, Esq. (formerly of Gersten Savage LLP)	1025 Fifth Avenue New York, NY 10028 T. 917-535-0038 eric@ericropersq.com
Michael Tannenbaum	Tannenbaum Helpern Syracuse & Hirschtritt LLP 900 Third Avenue New York, NY 10022 Phone: 212-508-6701 tannenbaum@thsh.com
Dianne Zeydel	Greenberg Taurig 333 SE 2nd Avenue Suite 4400 Miami, FL 33131 T: 305-579-0575 zeydeld@gtlaw.com

EXHIBIT D

CONFIDENTIAL AND ATTORNEY/CLIENT PRIVILEGED

[REDACTED]

[REDACTED]

MEMORANDUM

[REDACTED]

CONFIDENTIAL AND ATTORNEY/CLIENT PRIVILEGED

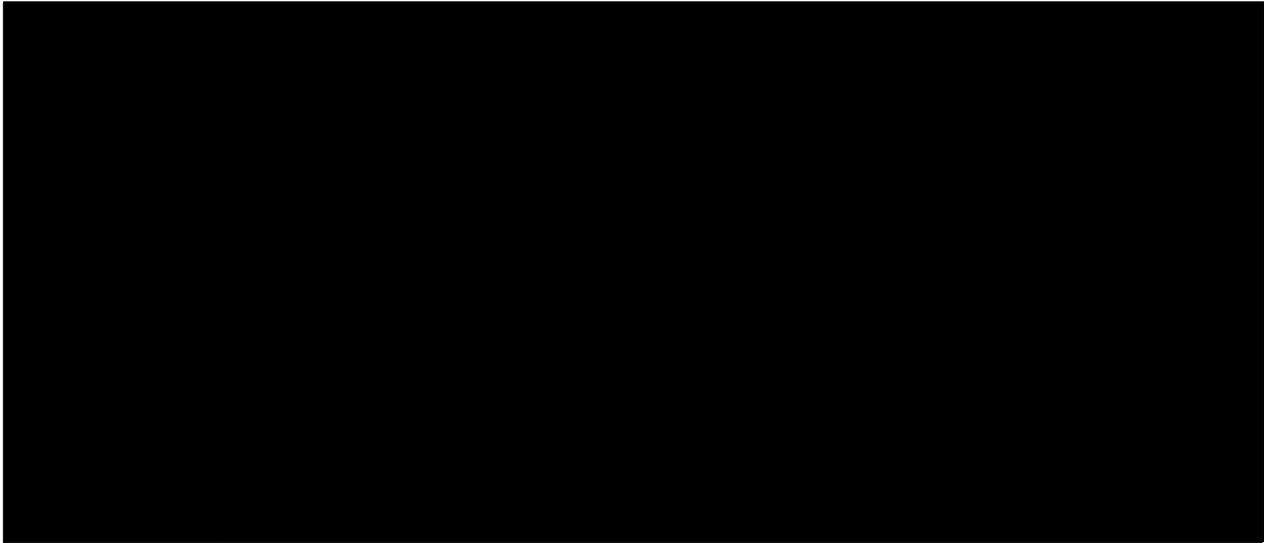
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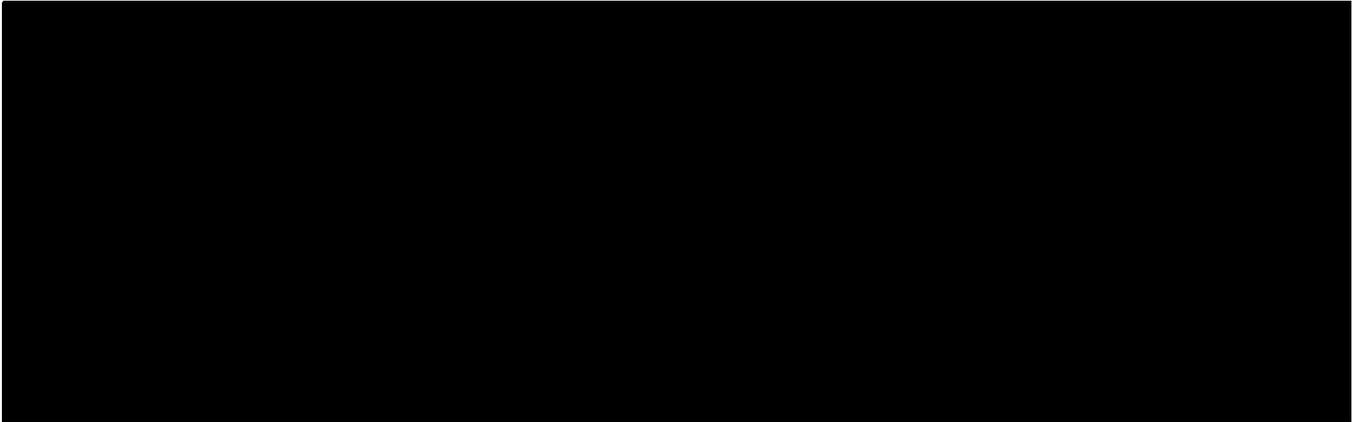
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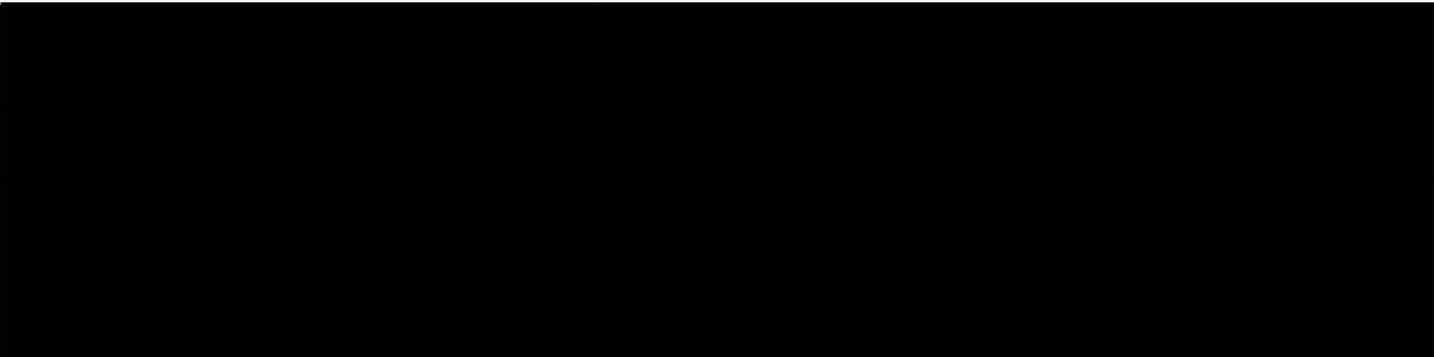
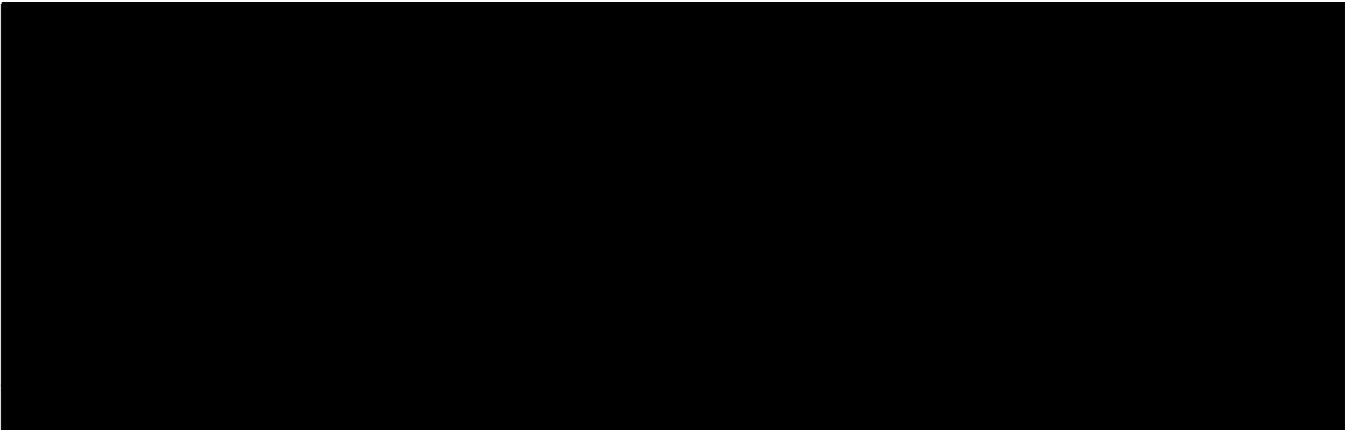
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[REDACTED]

CONFIDENTIAL AND ATTORNEY/CLIENT PRIVILEGED



■ **Conclusion**



**WHAT PEOPLE ARE
SAYING ABOUT ENDCARE**

"EndCare helped relieve some of the financial strain on our family when my stepfather was diagnosed with terminal cancer."

-- *EndCare Participant*

"EndCare was a real blessing for us in time of sorrow."

-- *EndCare Participant*



"EndCare could not have been easier. If you're rich, you probably don't need EndCare. But for the rest of us, EndCare is a great help."

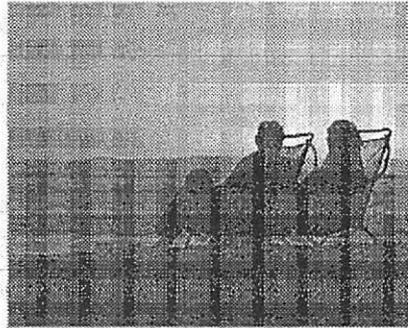
-- *EndCare Participant*

"This is really a wonderful thing that you are doing."

-- *Hospice Administrator*

COMMITMENT TO COMMUNITY

EndCare was founded in 2009 by a retired finance executive and his wife, a former healthcare executive. While EndCare is a profit-making enterprise, EndCare has in the past, and may in the future, make charitable contributions to not-for-profit healthcare providers in the markets that it serves.



*For further information, please call us.
Strict confidentiality will be maintained.
References available upon request.*



One Penn Plaza
Suite 3671
New York, NY 10119
212-786-7407 Phone
718-504-3934 Fax


**FINANCIAL ASSISTANCE
PROGRAM**



**HELPING FAMILIES
COPE WITH
THE FINANCIAL
BURDENS OF
END-OF-LIFE CARE**

WHAT IS ENDCARE?

Caring for individuals near the end of their lives can be stressful and emotionally challenging for families. Yet even as loved ones struggle to cope emotionally with the prospect of loss, significant financial challenges often exist. How will the family afford quality care? Can family members afford to take time off from work to care for their loved one? Will the family be able to afford a dignified and appropriate burial? EndCare can help.

EndCare provides \$10,000 of financial assistance to individuals near the end of life. This assistance comes at absolutely no cost to the individual.



Financial assistance comes in the form of a one-time cash payment made within 15 business days of enrollment. The payment is made directly to the individual or their family and proceeds can be used for any purpose, including hospice, medical and non-medical home care, family travel, and funeral expenses.

IS THERE ANY COST TO THE PARTICIPANT?

There is no cost to the participant.

The payment from EndCare is not a loan. Once enrolled, the participant has no further obligation. There are no fees, premiums or charges of any kind. EndCare is responsible for all expenses arising in connection with the program.

It is important for the participant and his/her family to understand that the payment is taxable income and may impact eligibility for Medicaid or other government benefits.

HOW DOES IT WORK?

Payments to families are made possible due to a proprietary investment strategy developed by EndCare. The investment strategy focuses on "survivor's option" investments, a type of investment which provides for accelerated repayment upon the death of the owner.

EndCare sets up and funds a brokerage account to purchase these investments and covers all expenses arising in connection with the account.

The participant, without contributing any money, is added as an additional owner on the account. In return, the participant receives an immediate cash payment from EndCare. The payment from EndCare is not a gift.

Upon the death of the participant, EndCare expects to make a profit on the investments substantially greater than the payment to the participant. The up-front payment to the participant represents a share of those expected profits.

WHO IS ELIGIBLE?

To qualify for EndCare, applicants must meet the following criteria:

- U.S. residents 18 years or older
- Enrolled in hospice or have life expectancy of less than 6 months as verified by physician
- Mentally fit or have delegated durable power of attorney
- All income and asset levels are accepted



HOW TO APPLY

Applying for the program is extremely easy and fast. Applicants fill out short forms, and fax or e-mail them to EndCare. Final approval, documentation and payment usually occur within a week of the initial contact.

Participant Agreement

1. Donald F. (Jay) Lathen ("Lathen"), pursuant to the terms of this agreement ("Agreement"), agrees to make the payment to _____ ("Participant") or Participant's designees pursuant to the terms of paragraph 2(f) below and subject to the full and complete compliance by Participant with the terms and conditions contained in this Agreement and the additional documents referenced herein. By signing this Agreement, Participant expressly acknowledges that this Agreement and the documentation for opening the brokerage accounts described below is part of a business ("Business") conceived and executed by Lathen with financing provided by Eden Arc Capital Partners, LP (the "Partnership"), a limited partnership organized by Lathen to fund the Business.

2. **Establishment of the Accounts.** Participant agrees to become a joint owner with Lathen and, at Lathen's discretion, one or more additional owners, on one or more brokerage account(s) (the "Account(s)"). To accomplish this objective, Participant acknowledges and agrees that:

a. The Account(s) will be titled as a joint tenancy with rights of survivorship ("JTWROS") consisting of Participant, Lathen and/or, in Lathen's discretion, one or more additional owners.

b. The Account(s), at Lathen's direction, will purchase certain investments ("Investments") which contain what is known as a "survivor's option" or "death put," which allows the investment, typically a fixed income security, to be sold back or "put" to the issuer, at par plus accrued interest, upon the death of the holder.

c. Participant agrees to execute a limited power of attorney (the "POA") to grant Lathen and Eden Arc Capital Management, LLC, the investment manager of the Partnership, limited power of attorney to execute any paperwork (the "Paperwork") required by brokerage firms to set up the Account(s) and, if necessary, to cooperate with these brokerage firms and Lathen to create and establish the Account(s) in the JTWROS format. Participant, and Participant's attorney-in-fact, if applicable, is encouraged to ask any questions and request any clarification regarding the contents and effects or consequences of the POA and the Paperwork prior to signing this Agreement.

d. Participant agrees to cooperate with Lathen to facilitate modifications to the Account(s) as necessary, except that Participant understands and agrees that Lathen and the Partnership are solely responsible for funding the Account(s), including funding the purchase of any securities transferred into the Account(s), or subsequently purchased in or from the Accounts(s), or satisfying any loans or liabilities arising with respect to the Account(s). Participant shall have absolutely no responsibility for funding the Account(s) and Participant affirms that no such funds or other consideration has been provided by Participant for such purpose.

e. The "Effective Date" shall be defined as the earliest date that an Account has been established and a sufficient quantity of Investments have been purchased and settled in the Account or, if applicable, have otherwise been transferred into the Account(s). Lathen shall have sole discretion with respect to determining what constitutes a sufficient quantity of Investments for purposes of this paragraph 2(e). Participant acknowledges that there may be a delay of up to fifteen (15) business days between the execution of this Agreement and the Effective Date (the "Investment Purchase Period"), due to brokerage firms' internal processing times and the availability of Investments.

Participant Initials: _____

f. In consideration of entering into this Agreement, Lathen shall pay Participant \$10,000 as soon as practicable following the Effective Date. Participant shall receive no additional payments with respect to the Account(s) unless the Account(s) are terminated and the funds in the Account(s) are disbursed prior to Participant's death. Participant, and Participant's attorney-in-fact, if applicable, ("Participant's Representative" and together, the "Participant Parties") expressly acknowledge that Lathen does not intend to terminate the Account(s) during Participant's lifetime and, therefore, it is unlikely that Participant or Participant's estate will receive any additional amounts under this Agreement or with respect to the Account(s). Participant Parties further acknowledge that neither Participant nor Participant's estate will participate in profits in the Account(s) following Participant's death, and that profits accruing to Lathen and the Partnership pursuant to this Agreement are likely to be substantially in excess of the payment to Participant.

g. The Account(s) will be pledged to secure a loan (the "Investment Loan") provided to Lathen by the Partnership to cover the payment to Participant and to finance the purchase of the Investments in the Account(s). The Investment Loan must be repaid prior to any other distribution from the Account(s).

h. Lathen may purchase Investments in the Account(s) on margin (i.e., with funds loaned by the brokerage firm). While such investment practice could expose Account holders, including Participant, to liability for so-called "margin calls," if the value of the securities in the Account(s) declines, Lathen hereby assumes sole responsibility to fund any such liabilities.

3. **Termination of Joint Tenancy.** Participant Parties hereby acknowledge and understand that upon Participant's death, the joint tenancy between Participant, Lathen and, if applicable, one or more additional owners, will terminate and the Account(s) and all assets and proceeds from such Account(s) will pass directly to Lathen and any additional owners. The Account(s) will not be part of Participant's estate.

4. **Pre-Decease Consequences.** In the event that Lathen pre-deceases the Participant, the Investment Loan shall become immediately due and payable. The Partnership will have authority to liquidate the Account(s) to satisfy the outstanding balance due under the Investment Loan. Once the Investment Loan is satisfied with respect to such liquidated Account(s), any remaining proceeds shall be paid to Participant, or if applicable, to Participant's estate. It is not expected that Lathen will predecease Participant and therefore it is unlikely that Participant or Participant's estate will receive any distributions from the Account(s) upon the death of Lathen.

5. **Participant Representations.** Each of the Participant Parties represents and warrants to Lathen that:

a. Participant is not currently an owner of any Investments as described above and that Participant will not purchase any such Investments or permit, allow or authorize any individual or entity other than Lathen to purchase such Investments on Participant's behalf.

b. Participant, or, if applicable, Participant's Representative, understands the nature and terms of this Agreement and of the Business, and is over the age of 18 years, competent and of sound mind.

c. Participant Parties, prior to executing this Agreement, have been given the full opportunity to ask questions from Lathen and have been given the opportunity to consult with a financial advisor, legal or other qualified representative.

Participant Initials: _____

d. Participant is not (i) subject to a current bankruptcy proceeding nor is the Participant considering a bankruptcy filing; or (ii) subject to any existing or pending judgments in favor of creditors. Participant Parties agree to notify Lathen promptly regarding any adverse changes to Participant's credit, including a potential bankruptcy proceeding or judgment in favor of creditors.

e. Each of the Participant Parties understands that none of Lathen, Eden Arc Capital Management or the Partnership is providing financial advice in connection with this Agreement and that none of Lathen, Eden Arc Capital Management nor the Partnership is acting in any fiduciary or other similar capacity in connection with this Agreement.

6. **Taxes.** Lathen is not providing tax advice with respect to this Agreement, the establishment of the Account(s) or any payments received by Participant under this Agreement, and Participant Parties are encouraged to seek advice from an accountant or tax adviser prior to executing this Agreement. Notwithstanding the foregoing, Participant Parties acknowledge and understand that payments made pursuant to this Agreement are taxable income and that Participant will receive Form 1099 (a copy of which will be filed with the Internal Revenue Service) reporting Participant's receipt of payments made pursuant to this Agreement.

7. **Governmental Benefit Programs.** Lathen is not providing legal advice with respect to this Agreement, the establishment of the Account(s) or any payments received by Participant under this Agreement. Participant Parties are advised to seek legal advice from an attorney prior to executing this Agreement. Notwithstanding the foregoing, Participant Parties acknowledge and understand that any payments Participant receives pursuant to this Agreement could be considered income or assets for Medicaid and could have an adverse impact on Participant's eligibility for Medicaid.

8. **Participant's Personal Information.** In connection with executing this Agreement, Participant shall complete and deliver to Lathen an enrollment form (the "Enrollment Form"). The Enrollment Form requires Participant to disclose certain identifying information (the "Identifying Information") that will be used by Lathen for the sole and exclusive purpose of setting up and opening the Account(s), including for the purpose of a "background/credit check" to facilitate opening the Account(s). The Identifying Information includes without limitation Participant's name, address, telephone number, social security number, employer information, and certain investment experience. Participant may also be asked to deliver to Lathen a copy of Participant's driver's license or other government issued ID, also for the sole and exclusive purpose of setting up and opening the Accounts.

9. **Release of Medical Information.** In connection with executing this Agreement, Participant shall complete and deliver to Lathen an Authorization to Release Medical Information (the "Release"). Lathen shall use this Release for the sole and exclusive purpose of requesting Participant's medical records (the "Medical Records") from Participant's physician(s) as necessary for Lathen to determine and verify Participant's medical history. Lathen shall use the Medical Records for no other purpose other than to determine, in his sole discretion, whether to countersign this Agreement.

10. **Indemnification.** Participant hereby agrees to indemnify Lathen and the Partnership and to hold Lathen and the Partnership safe and harmless for damages caused by Participant's breach of any of the terms of this Agreement.

Participant Initials: _____

11. **Participant's Agent.** Participant hereby appoints _____ as "Participant's Agent" to promptly notify Lathen in the event of Participant's death and, if requested, to assist Lathen in obtaining Participant's death certificates. This Agreement is expressly conditioned upon the Participant's Agent executing a Participant's Agent Agreement, whereby the Participant's Agent shall agree to cooperate with Lathen pursuant to this Section 11. Lathen shall reimburse the Participant's Agent for any expenses associated with procuring and delivering the requested death certificates to Lathen.

12. **Participant's Right to Cancel.** This Agreement will not be countersigned by Lathen for a period of three (3) days from the date of its return by Participant to Lathen (the "Participant Cancellation Period") for the express purpose of giving Participant Parties the opportunity to exercise a right of rescission and cancellation of participation herein. Participant or Participant's Representative may exercise such right by providing written notification of rescission and cancellation to Lathen prior to the expiration of such 3-day period. Upon receipt of such notification, this Agreement shall be canceled and shall be of no further force and effect.

12. **Termination; Cancellation.**

a. Lathen shall have the right to terminate this Agreement if the Participant dies prior to the Effective Date.

b. Pursuant to Section 2(e) hereof, if the Account(s) are not set up and a sufficient quantity of Investments have not been made prior to the end of the Investment Purchase Period, this Agreement shall terminate and be of no further force and effect unless otherwise agreed to in writing by the parties.

c. Lathen shall countersign this Agreement within seven (7) days of the end of the Participant Cancellation Period. This Agreement shall terminate and be of no further force and effect if not executed by Lathen before the end of such 7-day period unless otherwise extended in writing by the parties.

d. Immediately upon execution or termination of this Agreement by Lathen pursuant to this Section 13, Lathen shall provide written notice of such execution or termination to Participant.

14. **Spousal Waiver.** This Agreement is expressly conditioned upon Participant's spouse waiving any right or claim to the Account(s) arising now or in the future.

15. **Confidentiality.** Participant Parties hereby acknowledge that this Agreement and its terms, as well as all Paperwork, are private and confidential and that Participant Parties will not disclose the terms of this Agreement and the Paperwork to any person without the prior written consent of Lathen.

16. **Notices.** Any notice required or permitted to be given under this Agreement shall be given in writing and sent by an overnight express delivery service provider such as UPS or Federal Express, certified mail or fax to the party at the address set forth on the signature pages hereto or to such other address as such party shall have designated in writing.

17. **Governing Law.** This Agreement shall be governed and construed as to its validity, interpretation and effect by the laws of the State of New York without giving effect to the principles thereof regarding conflicts of law.

Participant Initials: _____

18. **General Waiver.** Lathen's failure to enforce strictly any provision of this Agreement shall not be construed as a waiver thereof or as excusing Participant's or Participant's Representative's future performance. Any waiver, to be effective in favor of Participant, must be in writing and signed by Lathen.

19. **Successors and Assigns.** This Agreement shall be binding upon the successors and heirs of the respective parties hereto.

20. **Amendment.** This Agreement shall not be changed, modified or terminated orally or in any manner other than by an agreement in writing signed by each of the parties hereto.

21. **Headings.** The headings of the sections of this Agreement are for convenience of reference only and in no way define, limit or affect the scope or substance of any section of this Agreement.

22. **Counterparts.** This Agreement may be executed in one or more counterparts, and by any of the parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

23. **Authorization.** If this Agreement is being executed by Participant's Representative, the undersigned hereby represents and warrants to Lathen that he/she (i) has the power and authority to execute this Agreement on behalf of Participant, (ii) Participant has executed a power of attorney (the "Participant's POA") granting such power to the undersigned, and (iii) the undersigned has provided Lathen a true and complete copy of the Participant's POA and the Participant's POA is valid, binding and in full force and effect as of the date hereof.

[Signatures on Following Page; Please Initial Prior Pages]

Participant Initials: _____



Authorization to Release Medical Information

Participant's Name: _____
Participant's Date of Birth _____ Participant's Telephone Number: _____
Participant's Address: _____

Name of Participant's Physician(s): _____
Physician(s) Telephone Number: _____
Physician(s) Address: _____

I, the above-referenced "Participant", hereby authorize the healthcare provider(s) listed above to share with Donald F. (Jay) Lathen ("Lathen") all of my health information that the provider has in his or her possession, including information relating to any medical history, mental or physical condition and any treatment received by me. I understand that my decision whether to give the health care provider permission to share medical information with Lathen is voluntary. However, I also understand that if I do not give this authorization, I may not qualify to receive benefits from Lathen, through his business, EndCare. I understand that I may refuse to sign or may revoke (at any time) this authorization for any reason. This revocation will be effective immediately upon Lathen's or my healthcare provider's receipt of my written notice, except that the revocation will not have any effect on any action taken by Lathen or my healthcare provider(s) in reliance on this authorization before it received my written notice of revocation. Any medical information that such provider(s) releases to Lathen will continue to be protected by federal privacy laws.

Participant's Signature: _____
Date: _____

If this form is being filled out by someone that has the legal authority to act on behalf of the Participant, please complete the following portion of this form. By signing below, you represent and warrant to that you have the power and authority to execute this Agreement on behalf of the Participant.

Signature of person filling out this form: _____
Print name: _____
Relationship to Applicant: _____
Date: _____

PLEASE PROVIDE A COPY OF THE DOCUMENT THAT GIVES THIS PERSON THE AUTHORITY TO ACT ON BEHALF OF THE APPLICANT.

Please fax completed form and any supporting documentation to EndCare at 646-349-5964. For questions, please call 212-786-7414



Participant Enrollment Form

Full Legal Name _____
Date of Birth _____ Social Security Number _____ Citizenship _____
Gender _____ Martial Status _____ Birthplace _____
Mother's Maiden Name _____ Father's Name _____
Daytime Ph _____ Evening Ph _____
Email Address _____ Home Address _____
City, state, zip _____ How long at current address? _____ yrs _____ mo
Do you own or rent your home? _____
Do you have a government-issued photo ID? _____ Y _____ N If yes, what kind of ID? _____
ID Number _____ ID Issuance Date _____ ID Expiration Date _____
(Please provide a copy of any government-issued photo ID along with this form)

Are you currently insured under the following programs? Please check all that apply:
_____ Medicare _____ Medicaid _____ Applying for Medicaid _____ Private insurance _____ Self-pay

Occupation _____ Employer _____
Employer Address _____

Household Income \$ _____ Household Liquid Assets \$ _____
Household Net Worth \$ _____

Are you registered with or do you work for a securities firm, exchange or FINRA (formerly NASD)? _____ Y _____ N
Are you a director, 10% shareholder or policy-making officer of a publicly traded company? _____ Y _____ N
If you answered yes to either of the two previous questions, please describe your position(s):

Please describe your investment experience, including whether you currently own securities, what types of securities you own, if any, and the approximate aggregate value of such investments:

If the applicant wishes to designate an alternative contact person, please provide further information below:

Name _____ Relationship to Applicant _____
Daytime Ph _____ Evening Ph _____ Email _____

By executing this Participant Enrollment Form, the undersigned hereby acknowledges that the information provided above shall be used by Donald F. (Jay) Lathen ("Lathen") pursuant to the Participant Agreement executed by the undersigned and Lathen (the "Participant Agreement") for the sole and exclusive purpose of setting up and opening the Account(s) (as the term is defined in the Participant Agreement), and the undersigned further certifies that such information is true and correct as of the date hereof.

Participant's Signature: _____ Date: _____

If this form is being filled out by someone that has the legal authority to act on behalf of the Participant, please complete the following portion of this form. By signing below, you represent and warrant to that you have the power and authority to execute this Agreement on behalf of the Participant.

Signature of person filling out this form: _____ Date: _____

Print name: _____

Relationship to Applicant: _____

PLEASE PROVIDE A COPY OF THE DOCUMENT THAT GIVES THIS PERSON THE AUTHORITY TO ACT ON BEHALF OF THE APPLICANT.

Please fax completed form and any supporting documentation to EndCare at 646-349-5964.
For questions, please call 212-786-7414



Limited Power of Attorney

The undersigned, _____, residing at _____ ("Grantor"), has made, constituted, and appointed, and by these presents does constitute and appoint Donald F. (Jay) Lathen and Eden Arc Capital Management LLC, and either of them, the true and lawful attorney to:

- 1. open, manage, handle, and direct brokerage accounts titled in the undersigned's name either individually or jointly;
2. to buy, sell, exchange, convert, tender, trade, lend, and in any and every other way it sees fit to handle, dispose of, acquire, and deal in stocks, bonds, shares of mutual funds and money-market funds, other securities, and contracts relating thereto (including without limitation derivatives, commodities, and futures contracts) with or through a brokerage firm ("Broker") or custodian ("Custodian");
3. to pledge and grant a security interest in the Account(s) and Grantor's interest therein;
4. to execute agreements relating thereto in their name or otherwise on their behalf;
5. to make, execute, and deliver assignments and transfers of any and all stocks, bonds, cash and other securities;
6. to sign their name to any and all written instruments of assignment or otherwise that may be required in connection with such assignment;
7. to transfer funds into and out of such accounts.

This limited power of attorney applies to and covers the accounts until written notice of revocation hereof is given by the undersigned to the Broker or Custodian, and the undersigned hereby ratifies and confirms any and all acts heretofore done, or that may hereafter be done or caused to be done, by virtue hereof by the attorney of the undersigned, giving and granting unto said attorney limited power and authority to do and perform each and every act and thing whatsoever requisite or necessary to be done with respect to the accounts as fully to all intents and purposes as the undersigned might or could do if personally present.

This authorization is continuing and remains in full force and effect until revoked by the undersigned. This authorization shall not be affected by the subsequent incapacitation, disability or incompetence of the undersigned.

Name (GRANTOR): _____

Date _____

STATE OF _____)
) ss
COUNTY OF _____)

On the ___ day of _____ in the year _____, Grantor or representative of Grantor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____
Name: _____

AGREED AND ACCEPTED:

EDEN ARC CAPITAL MANAGEMENT LLC

Donald F. (Jay) Lathen

By: _____
Name:
Title:



Participant's Agent Agreement

The undersigned, _____ (the "Participant's Agent") hereby acknowledges that _____ ("Participant") has enrolled in EndCare's financial assistance program. In connection with such enrollment, Participant executed a Participant's Agreement by and between Participant and Donald F. (Jay) Lathen ("Lathen"), wherein Participant named the undersigned as his/her "Participant's Agent." In consideration of the mutual promises contained herein, the Participant's Agent hereby agrees to promptly notify Lathen in the event of Participant's death and, if requested, to assist Lathen in obtaining Participant's death certificates. Lathen shall reimburse the Participant's Agent for any expenses associated with procuring and delivering the requested death certificates to Lathen.

This agreement shall be governed and construed as to its validity, interpretation and effect by the laws of the State of New York without giving effect to the principles thereof regarding conflicts of law. This Agreement may be executed in one or more counterparts, and by any of the parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same instrument. Any notice required or permitted to be given under this agreement shall be given in writing and sent by overnight courier service such as Federal Express or UPS, certified mail or fax to the party at the address set forth on the signature pages hereto or to such other address as such party shall have designated in writing.

IN WITNESS WHEREOF, the undersigned have duly executed this Participant's Agent Agreement as of this _____ day of _____, 20_____.

PARTICIPANT'S AGENT:

By: _____

Name: _____

Address: _____

Donald F. (Jay) Lathen

Address: _____

Facsimile: 646-349-5964



Limited Power of Attorney

The undersigned, _____, residing at _____ ("Grantor"), has made, constituted, and appointed, and by these presents does constitute and appoint Donald F. (Jay) Lathen and Eden Arc Capital Management LLC, and either of them, the true and lawful attorney to:

- 1. open, manage, handle, and direct brokerage accounts titled in the undersigned's name either individually or jointly;
2. to buy, sell, exchange, convert, tender, trade, lend, and in any and every other way it sees fit to handle, dispose of, acquire, and deal in stocks, bonds, shares of mutual funds and money-market funds, other securities, and contracts relating thereto (including without limitation derivatives, commodities, and futures contracts) with or through a brokerage firm ("Broker") or custodian ("Custodian");
3. to pledge and grant a security interest in the Account(s) and Grantor's interest therein;
4. to execute agreements relating thereto in their name or otherwise on their behalf;
5. to make, execute, and deliver assignments and transfers of any and all stocks, bonds, cash and other securities;
6. to sign their name to any and all written instruments of assignment or otherwise that may be required in connection with such assignment;
7. to transfer funds into and out of such accounts.

This limited power of attorney applies to and covers the accounts until written notice of revocation hereof is given by the undersigned to the Broker or Custodian, and the undersigned hereby ratifies and confirms any and all acts heretofore done, or that may hereafter be done or caused to be done, by virtue hereof by the attorney of the undersigned, giving and granting unto said attorney limited power and authority to do and perform each and every act and thing whatsoever requisite or necessary to be done with respect to the accounts as fully to all intents and purposes as the undersigned might or could do if personally present.

This authorization is continuing and remains in full force and effect until revoked by the undersigned. This authorization shall not be affected by the subsequent incapacitation, disability or incompetence of the undersigned.

Name (GRANTOR):

Date

STATE OF _____)
) ss
COUNTY OF _____)

On the ___ day of _____ in the year _____, Grantor or representative of Grantor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____
Name: _____

AGREED AND ACCEPTED:

EDEN ARC CAPITAL MANAGEMENT LLC

Donald F. (Jay) Lathen

By: _____
Name:
Title:

12.20.12

EXHIBIT E

Participant Agreement

1. Donald F. (Jay) Lathen ("Lathen"), pursuant to the terms of this agreement ("Agreement"), agrees to provide payment to Adolph P. Pratola Jr. ("the Participant") or Participant's designees pursuant to the terms of paragraph 2(f) below and subject to the full and complete compliance by Participant with the terms and conditions contained in this Agreement. By signing this Agreement, Participant expressly acknowledges that this Agreement and the documentation for opening the brokerage accounts described below ("Account(s)") is part of a business ("Business") conceived and executed by Lathen with financing either provided by Lathen or being arranged from various third party investors ("Investors") and in differing formats, including Eden Arc Capital Partners, a limited partnership organized by Lathen, to fund the Business.

2. Participant agrees to become a joint owner with Lathen and/or one or more designee(s) (individually a "Designee" or collectively "Designees") appointed by Lathen on one or more brokerage Account(s). The Participant acknowledges and agrees:

a. That the Account(s) will be titled as a joint tenancy with rights of survivorship ("JTWROS") consisting of the Participant, Lathen and/or, in Lathen's discretion, with one or more Designee(s).

b. That the Account(s) will purchase certain investments ("Investments") which contain what is known as a "survivor's option" or "death put," which allows the investment, typically a fixed income security, to be sold back or "put" to the issuer, at par plus accrued interest, upon the death of the holder.

c. You agree to grant Lathen limited power of attorney ("POA") to execute paperwork ("Paperwork") required by the brokerage firms and, if necessary, to cooperate with the brokerage firms and Lathen to create and establish the Account(s) in the JTWROS format. The POA has been included with this Agreement. The Participant is encouraged to ask any questions and request any clarification regarding the contents and effects or consequences of the POA and Paperwork prior to signing this Agreement.

d. You hereby authorize Lathen to make transfers of cash and securities into and out of the Account(s) without your prior consent, including to and from other accounts that Lathen and the Investors control. You agree to cooperate with Lathen to facilitate these transfers if necessary and to facilitate modifications to the Account(s) as necessary except that the Participant understands and agrees that Lathen and Investors are solely responsible for funding the Account(s), including funding the purchase of any securities transferred into the Account(s) or subsequently purchased in or from the Account(s). Participant shall have absolutely no responsibility for funding the Account(s) and the Participant affirms that no such consideration has been provided to or by Participant for such purpose.

e. The Effective Date shall be defined as the earliest date that an Account(s) has been established and a sufficient quantity of Investments have been purchased and settled in the Account(s) or, if applicable, have otherwise been transferred into the Account(s). Lathen shall have sole discretion with respect to determining what constitutes a sufficient quantity of Investments for purposes of this paragraph 2(e). Participant acknowledges that there may be a delay of up to fifteen (15) business days between the execution of this Agreement and the Effective Date, due to brokerage firms' internal processing times and the availability of Investments.

f. The Participant shall be entitled to 5% of the net profits in the Accounts during the term of the joint tenancy, subject to a minimum of \$10,000 and a maximum of \$15,000. Participant shall receive a \$10,000 payment as soon as practicable following the Effective Date. Payments with respect to additional net profits in

the Account(s), if any, will be payable upon realization of such profits. Participant expressly acknowledges that there is no assurance that he/she or his/her estate will receive additional payments under this Agreement. Participant acknowledges that he/she or his/her estate will not participate in profits in the Account(s) following the death of the Participant. Participant acknowledges that profits accruing to Lathen and Investors pursuant to this Agreement are likely to be substantially in excess of the initial payment to the Participant.

3. Participant agrees that he/she will not be permitted to pledge, borrow against, or withdraw funds from the Account(s) without the express written permission of Lathen, which permission may be withheld in Lathen's sole discretion. It is specifically understood by Participant that upon Participant's death, the joint tenancy between Lathen, the Participant and (if applicable) the Designees, will terminate and the Account(s) and all assets and proceeds from such Account(s) will pass directly to Lathen and the Investors and that the Account(s) will not be part of Participant's estate.

4. In the event that Lathen and the Designees should pre-decease the Participant, Participant, or if applicable, Participant's estate hereby agree to cooperate with Investors or their designated agent to liquidate the Account(s). Once liquidated, any funds contributed by Investors to the Accounts would be returned to them. The remaining value in the Account(s), if any, would then be divided 95% to Investors and 5% to Participant or their estate.

5. Participant represents that he/she is not currently an owner of any Investments as described above. Participant further agrees that he/she will not purchase any such Investments or permit, allow or authorize any party other than Lathen and Investors to purchase such Investments on his/her behalf.

6. Participant acknowledges and agrees that:

a. He/she understands the nature and terms of this Agreement and is over the age of 18 years, competent and of sound mind, memory and also understands the nature of the Business described above, or, if applicable, Participant's attorney-in-fact is over the age of 18, competent and of sound mind, memory, and understands the nature and terms of this Agreement and nature of the Business described above.

b. Neither Lathen nor any Investor is providing financial advice in connection with this Agreement and is solely acting with Participant in accordance with the terms and conditions of this Agreement and of the Account(s) and not in any fiduciary or other such capacity to the Participant;

c. He/she has been given the full opportunity to ask questions from Lathen and understands the nature of the Business described above and also has been given the opportunity to consult with a financial advisor, legal or other qualified representative prior to executing this Agreement;

d. He/she understands that the reason that this Agreement will not be countersigned by Lathen for a period of 3 days from the date of its return by Participant is for the express purpose of giving the Participant the opportunity to exercise a right of rescission and cancellation of participation herein by providing written notification to Lathen.

e. Lathen is not providing tax advice with respect to the Agreement, the establishment of the Account(s) or any payments received by the Participant under this Agreement. Participant acknowledges and is aware that there may be federal, state or local tax consequences to the Participant which are unknown to Lathen concerning this Agreement. As such, Participant is required to seek advice from his/her accountant or tax advisor prior to executing this Agreement.

f. Participant understands that any payments he/she receives under this Agreement could be considered income or assets by Medicaid and could have an adverse impact on Participant's eligibility to receive Medicaid benefits.

g. Participant will, upon request by Lathen, provide the following on an entirely confidential and need to know basis: (i) his/her social security number and a copy of a drivers license or other government issued ID solely for the purpose of allowing a "background/credit check" to be made and to facilitate opening the Account(s); and/or (ii) such permission as shall be necessary for Lathen to consult with the Participant's physician in order to discuss and verify the medical condition of Participant.

7. Participant represents that he/she is not subject to a current bankruptcy proceeding nor is he/she considering a bankruptcy filing. Participant represents that he/she is not subject to any existing or pending judgments in favor of creditors. Participant agrees to notify Lathen promptly regarding any adverse changes to his/her credit, including a potential bankruptcy proceeding or judgment in favor of creditors.

8. Participant agrees to indemnify Lathen and Investors for damages caused by Participant's breach of any of the terms of this Agreement.

9. Wanda Pratola, ("Participant's Agent"), agrees to promptly notify Lathen in the event of Participant's death and, if requested, to assist Lathen in obtaining death certificates of the Participant. Lathen shall reimburse Participant's Agent for any expense associated with procuring and delivering the requested death certificates to Lathen.

10. Lathen shall have a right to terminate this Agreement if Participant dies prior to the Effective Date.

11. Wanda Pratola, Participant's spouse, hereby waives any right or claim to the Account(s) arising now or in the future.

12. Participant and Participant's Agent acknowledge that this Agreement and its terms, as well as all Paperwork, are private and confidential and that the Participant will not disclose the terms of this Agreement and the Paperwork to any person without the prior written consent of Lathen.

13. This Agreement shall be governed and construed as to its validity, interpretation and effect by the laws of the State of New York without giving effect to the principals thereof regarding the conflicts of law.

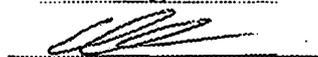
14. Lathen's failure to enforce strictly any provision of this Agreement shall not be construed as a waiver thereof or as excusing the Participants future performance. Any waiver, to be effective in favor of the Participant, must be in writing and signed by Lathen.

15. This Agreement shall be binding upon the successors and heirs of the respective parties hereto.

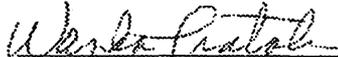
16. This Agreement shall not be changed, modified or terminated orally or in any manner other than by an agreement in writing signed by each of the parties hereto.

DATED AS OF THE 4th DAY OF December IN THE YEAR 2012

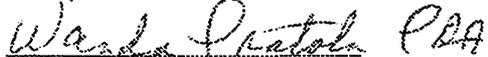
Donald F. (Jay) Lathen



Wanda Pratola



Adolph P. Pratola Jr.



Limited Power of Attorney

The undersigned, Adolph P. Pratola Jr., residing at 9-A Heron Street, Manchester, NJ 08759 has made, constituted, and appointed, and by these presents does constitute and appoint Donald F. (Jay) Lathen and Eden Arc Capital Management LLC, the true and lawful attorney to:

- 1. open, manage, handle, and direct brokerage accounts titled in the undersigned's name either individually or jointly;
2. to buy, sell, exchange, convert, tender, trade, lend, and in any and every other way it sees fit to handle, dispose of, acquire, and deal in stocks, bonds, shares of mutual funds and money-market funds, other securities, and contracts relating thereto...
3. to execute agreements relating thereto in their name or otherwise on their behalf;
4. to make, execute, and deliver assignments and transfers of any and all stocks, bonds, cash and other securities;
5. to sign their name to any and all written instruments of assignment or otherwise that may be required in connection with such assignment;
6. to transfer funds into and out of such accounts.

This limited power of attorney applies to and covers the account until written notice of revocation hereof is given by the undersigned to the Broker or Custodian, and the undersigned hereby ratifies and confirms any and all acts heretofore done, or that may hereafter be done or caused to be done, by virtue hereof by the attorney of the undersigned, giving and granting unto said attorney limited power and authority to do and perform each and every act and thing whatsoever requisite or necessary to be done with respect to the accounts as fully to all intents and purposes as the undersigned might or could do if personally present.

This authorization is continuing and remains in full force and effect until revoked by the undersigned. This authorization shall not be affected by the subsequent incapacitation, disability or incompetence of the undersigned.

Wanda Pratola (AGENT FOR GRANTOR)

12.4.12 Date

BY DONALD F. LATHEN (ATTORNEY-IN-FACT)

12-5-12 Date

STATE OF: COUNTY OF:

On the 4th day of December in the year 2012, Grantor or representative of Grantor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Bernadette A. Sheehan

Notary Public: State of

BERNADETTE A. SHEEHAN NOTARY PUBLIC OF NEW JERSEY Commission Expires 8/13/2016

Uniform Statutory Form Financial Power of Attorney

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, Adolph Pratola Jr, 9-A Heron Street, Manchester, NJ, 08759 appoint Wanda H Pratola, 9-A Heron Street, Manchester, NJ, 08759 as my agent (attorney-in-fact) for me in any lawful way with respect to the following initialed subjects.

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS. TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING. TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

- (A) REAL PROPERTY TRANSACTIONS
- (B) TANGIBLE PERSONAL PROPERTY TRANSACTIONS
- (C) STOCK AND BOND TRANSACTIONS
- (D) COMMODITY AND OPTION TRANSACTIONS
- (E) BANKING AND FINANCIAL INSTITUTION TRANSACTIONS
- (F) BUSINESS OPERATING TRANSACTIONS
- (G) INSURANCE AND ANNUITY TRANSACTIONS
- (H) ESTATE, TRUST, AND OTHER BENEFICIARY TRANSACTIONS
- (I) CLAIMS AND LITIGATION
- (J) PERSONAL AND FAMILY MAINTENANCE.
- (K) BENEFITS FROM SOCIAL SECURITY, MEDICARE, MEDICAID, GOVERNMENTAL PROGRAMS, CIVIL SERVICE, OR MILITARY SERVICE.
- (L) RETIREMENT PLAN TRANSACTIONS
- (M) TAX MATTERS
- (N) ALL OF THE POWERS LISTED ABOVE

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

1/3

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES, YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

My agent shall have the power to direct distributions of principal and interest from my IRA accounts.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

~~STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.~~

I agree that any third party who receives a copy of this document may act under it. A third party may require identification. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 20th day of January, 2011

Adolph Prastola Jr
(Your signature)

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

I declare under penalty of perjury (1) that the person who signed this power of attorney is personally known to me, or that the Principal's identity was proven to me by convincing evidence, (2) that the Principal acknowledged this power of attorney in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud or undue influence, and (4) that I am not a person appointed as the Attorney in Fact. I further declare that I am not related to the Principal by blood, marriage, domestic partnership or adoption.

2/3

1/20/11
(Date)

[Signature]
(Witness Signature)

7 ALBATROSS Drive
(Address)

ROBERT CLAYLINO
(Printed Name of Witness)

Howe NJ
(City)

New Jersey
(State)

1/20/11
(Date)

[Signature]
(Witness Signature)

5 NEPTUNE ROAD
(Address)

EDMUND I. LUSTINO JR.
(Printed Name of Witness)

TOMBS RIVER
(City)

NEW JERSEY
(State)

State of New Jersey }
County of Ocean } ss.

On Jan 20th, 2011 before me, Bernadette Sheehan, Notary Public, personally appeared Adolph Pratola Jr,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Signature Bernadette A Sheehan

BERNADETTE A. SHEEHAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/13/2016

EXHIBIT G

Transcript of VM, produced as SEC-ProtassH-E-0065702

Good morning, Michael. Peter Pront, from Seward & Kissel. 8:10 on Thursday morning. Got your email and I apologize for the delay in getting back to you. I had to run through a number of my colleagues on this issue.

I'll be leaving for a meeting in about uh 10 minutes or so and I'll be back sometime about 11. So I can give you a call then. The bottom line is that I have good news and bad news. The good news is that my T&E colleagues -- at least preliminarily -- think that the tenancy by the . . . the joint tenancies with right of survivorship question likely could be answered in the positive. Just perusing the documents . . . We have a summer associate looking at it now in a little more depth, but we haven't fully vetted it, but, you know, just based upon what I've told them and their review of the documents, it looked like you could get to a positive result.

The negative news is my colleagues are concerned about Seward & Kissel issuing the opinion uh given the fact that it's sort of a one-off deal -- it's an opinion that will be effectively marketed, uh, you know, with the product, and a product that we're not overly comfortable with. And lastly, that, um, our firm represents many, many, many uh financial institutions, many of which might likely have issued these, uh, securities op-, uh, securities or securities options and the concern being that we might be viewed, rightly or wrongly, as sort of helping your client, uh, you know, take, take advantage of the bank on these securities by issuing this opinion.

So, um, my thought is that I, uh -- again, I don't know to what level of comfortability you'd rise with, you know, another New York law firm doing this that may be a boutique. Um, and we have other contacts at larger firms that we might be able to refer this to to ultimately issue the opinion and to back-stop that with our, you know, thoughts that, um, you know, this does work, and help them with the legal analysis, at least preliminarily, but bottom line is I don't think we're going to be in a position to issue the opinion, but we may be able to refer you to someone else. I've got a couple of friends at smaller boutique estate and trust firms -- I mean, well known in their field, but not well-known in the financial industry -- who certainly may be willing to, uh, give you the favorable opinion that you're looking for.

In any event, I'll be back at my desk about 11 o'clock, so, uh, if you'd like to chat further, give me a call. I'm excited about your trip to Greece. Look forward to hearing about it at some point in time and if I don't speak to you before you leave, have a great holiday weekend and we'll catch up soon. I'll send you an email in a few minutes just to confirm this voice mail.

Thanks a lot, Michael. Appreciate it. Take care. By-bye.

EXHIBIT H

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1 speaks for itself.

2 A Yeah. I mean, that's what it

3 specifies as follows. I mean, it certainly mentions

4 it. It doesn't mention the degree of reliance on

5 it, but it mentions it.

6 Q When did you disburse the participant

7 payment to Kilgus?

8 A It would have been -- I don't recall

9 exactly, but it would have been some time after

10 May 31st or maybe as early as May 31st. I don't --

11 I don't recall.

12 Q Now, take a look at page seven of

13 seven, the second to last paragraph where it says,

14 "Finally, this memoranda does not address the

15 validity of the joint account arrangements or any

16 difference between the structure of Caramadre's

17 activities and the program that are not the basis

18 for the allegations in the indictment."

19 Focusing on the first half of that

20 sentence, you acknowledge you did not have a legal

21 opinion on the validity of the joint account

22 arrangements?

23 MR. PROTASS: Objection.

24 Q Or did you have a separate one?

25 A There -- we do not possess a legal

Page 310

1 opinion on the validity of the joint tenancies. Nor

2 do I believe that we ever represented that we had a

3 legal opinion on the validity of the joint

4 tenancies.

5 Q And to be clear, when you say you

6 didn't have a legal opinion on the validity of the

7 joint tenancies we're talking about oral opinions as

8 well as written opinions?

9 A We did not have a written opinion.

10 Q What about an oral opinion?

11 A We had oral advice. I don't want

12 to -- I don't want to use the term opinion because I

13 don't know -- you know, that can sometimes connote,

14 you know, a strong -- stronger -- a stronger view

15 than is intended, but we certainly received advice

16 on, you know, how to structure our contracts in a

17 way which preserved the validity of the joint

18 tenancy.

19 Q Preserved the validity of the joint

20 tenancy or preserve the argument of the validity of

21 the joint tenancy?

22 A Preserve the validity of the joint

23 tenancy.

24 Q So you had an opinion that the way

25 that the agreement was structured there was valid --

Page 311

1 there were valid joint tenancies?

2 MR. PROTASS: Objection. I don't

3 think he testified that he had an opinion. I think

4 he testified that he had advice.

5 A I had advice regarding the joint

6 tenancy.

7 MR. GRACE: Did you ever seek a

8 written opinion regarding the validity of the joint

9 tenancy arrangements?

10 THE WITNESS: Yes, I have sought. I

11 have attempted to get a written opinion.

12 MR. GRACE: Okay.

13 Q And why is it that you didn't get

14 one?

15 A A variety of reasons. In the case of

16 Hinckley, Allen, Snyder they -- they said it's not

17 really what they do. Some other firms we spoke to

18 said similar things, it's not what we do. Another

19 firm -- a couple of firms they -- they said,

20 basically, said, you know, we can't opine. We could

21 potentially opine on this, but we have issuers in

22 this marketplace who are our clients and we don't

23 want to piss them off. No one said, we don't think

24 you have a joint -- valid joint tenancy.

25 Q Did anyone say we think you do have a

Page 312

1 valid joint tenancy?

2 A Not directly to me, but I understood

3 from one of my colleagues -- not colleagues. I

4 mentioned Blue Sand, which is a -- my marketing

5 firm, they had a contact at Seward and Kissel and we

6 sent out some materials to them describing the --

7 the arrangement, including our -- our contract. And

8 the -- the contract was a little bit different than

9 the -- the participant agreement that we were using

10 at the time, but it was substantively the same. And

11 the word came back from this person at Seward and

12 Kissel, you know -- they basically left a voice mail

13 for Michael Cooney who was one of the partners at

14 Blue Sand. He said, good news, bad news. Good news

15 is I think you -- you know, I think you've got valid

16 joint tenancies here, but the bad news is that we

17 do -- we do work for a number of the issuers in the

18 CD space and we're not going to want to piss them

19 off.

20 MR. GRACE: How many firms did you

21 ask for a written opinion for the validity of the

22 joint tenancy arrangements?

23 THE WITNESS: There were maybe a

24 handful of firms that I pursued conversations to

25 varying degrees around exploring whether or not they

Page 313

1 could be a candidate to render an opinion.
 2 MR. GRACE: By "handful" are we
 3 talking about fewer than five?
 4 THE WITNESS: Yeah. I'd say
 5 probably, yeah, four or five.
 6 MR. GRACE: And during what time
 7 period?
 8 THE WITNESS: This would have been
 9 in, sort of, early 2014.
 10 MR. GRACE: Prior to that you had not
 11 sought a written legal opinion on the validity of
 12 the joint tenancies?
 13 THE WITNESS: No.
 14 MR. GRACE: And is there a point
 15 during 2014 that you stopped seeking a written legal
 16 opinion regarding the validity of the joint
 17 tenancies?
 18 THE WITNESS: Yes.
 19 MR. GRACE: And why did you stop?
 20 THE WITNESS: I was sued by Prospect
 21 on June 30th, 2014. And I figured, okay, we're
 22 going -- we're going to litigate this. I think I'll
 23 save my money to pay a litigator and not spend it on
 24 someone writing an opinion. I'd rather wait and get
 25 it from the judge than try to buy it from a law firm

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1 that will have it so full of caveats that it will be
 2 almost worthless anyway.
 3 MR. GRACE: When was the law -- the
 4 last time you had sought written legal opinion
 5 before that Prospect lawsuit?
 6 THE WITNESS: Probably, you know, May
 7 or June. And there may have been -- there may have
 8 been some conversations that even went past when,
 9 you know, the Prospect lawsuit was filed, but you
 10 know, at the end of the day ultimately the decision
 11 was made that, you know, I wasn't going -- I wasn't
 12 going to look for the opinion and -- and would
 13 rather just, you know, pursue a resolution in the
 14 courts.
 15 MR. GRACE: And that voice message
 16 that you had referred to from somebody at Seward and
 17 Kissel to somebody at Blue Sand, when did that
 18 happen?
 19 THE WITNESS: I don't recall. It
 20 probably would have been some time in early 2014.
 21 First half of 2014. We sought the opinion because
 22 we were -- we knew we were in a dispute with
 23 Prospect and we sought -- and we had some issues,
 24 you know, in late 2013 with Goldman Sachs and
 25 Barclay's and Goldman had seen our participants

Page 315

1 agreements and -- and said, we're not paying you.
 2 We don't think you're valid -- your tenancies are
 3 valid.
 4 Barclay's, you know, we had shared
 5 our participant agreements with them and they
 6 ultimately paid the claims. And, you know, we were
 7 having issues with Prospect. So we felt, you know,
 8 we -- we probably should try to get legal opinion
 9 here on the validity of the joint tenancies. For me
 10 to be having argument with -- from issuers maybe a
 11 legal opinion would be helpful in that context. So
 12 that's what initiated the -- the brief survey of --
 13 of a handful of firms to explore issue -- you know,
 14 issuing some sort of an opinion.
 15 EXAMINATION
 16 BY MS. WEINSTOCK:
 17 Q And earlier when you were talking
 18 about advice you said you got advice. Were you
 19 referring to Seward and Kissel?
 20 A No. I was -- the -- the firms that I
 21 have engaged since -- since inception around the
 22 business broadly, in order, Katten, Muchin, Gersten,
 23 Savage; Hinckley, Allen, Snyder; Kevin Galbraite,
 24 and Clayman and Rosenberg.
 25 Q But which of those gave you advice on

Page 316

1 the validity of the joint tenancies? I don't know
 2 if I'm understanding you correctly because you
 3 talked about Seward and Kissel. You also said --
 4 A There are elements -- yeah, the
 5 Seward and Kissel never rose to a level where --
 6 well, first of all, they didn't advise me directly.
 7 I never had a conversation with Seward and Kissel.
 8 I was forwarded an e-mail that had an audio file
 9 attached to it and it was a voice mail that this
 10 partner at Seward and Kissel had left for Michael
 11 Cooney, the -- a partner at Blue Sand. That's how I
 12 became aware of Seward and Kissel's thoughts on the
 13 joint tenancy, but it was not communicated to me
 14 directly.
 15 And I think it would be a stretch to
 16 say that they advised me, the other firms that I
 17 have mentioned, have advised me on the program
 18 overall and it's many facets. One of which -- one
 19 issue of which we've been discussing is the validity
 20 of the joint tenancies. So I don't know if that
 21 answers your question, but --
 22 Q When you talk about you're
 23 distinguishing advice from opinion, how are you
 24 making that distinction?
 25 A An opinion -- I think an opinion is

EXHIBIT F

Donald F. Lathen

One Penn Plaza, Suite 3671
New York, NY 10119
212-786-7407 Phone
718-504-3934 Fax

January 30, 2014

Ms. Andrea Burriesci, VP
CL King & Associates
Madison Avenue, 8th Floor
New York, NY 10022

Re: Survivor's Option Election - Account [REDACTED]

To Whom It May Concern:

Adolph P. Pratola, Jr., a joint owner on the above-referenced account, recently passed away. As the surviving joint owners on the account, we would like to exercise the survivor's option with respect to the following bonds in the account. Attached is the death certificate supporting this request.

Quantity	Security Description	CUSIP
250,000	GENL ELECTRIC CAP CORP INTERNOTES SEMI SURVIVOR OPTION CPN 3.550% DUE 12/15/32 DTD 12/13/12 FC 06/15/13	36966THE5

Regards,

Donald F. Lathen

David E. Jungbauer

Attachment

EXHIBIT I

To: Darren Kane[darren.kane@missioncriticalservices.com]
From: Jay Lathen
Sent: Mon 2/23/2015 11:20:30 AM
Importance: Normal
Subject: RE: Vertical Capital Complaint

Darren,

Tactically I don't want to use Seward and Kissel. They represent a lot of banks in offerings of brokered CDs which contain a death put. Therefore, I think they may feel conflicted about representing me. Also, I do not wish to open the kimono with them in regards my entire business plan and contractual arrangements as I am concerned they may use that information to help their issuer clients draft new/better survivor's option language to frustrate my business going forward. So I don't want to potentially open a can of worms with them.

I have reached out to Kaye Scholer. Jonathan Green's bio certainly looks on point. I am gathering other referrals as we speak and hope to make a decision by the end of the week with respect to representation on this matter.

Thanks,

Jay

Jay Lathen

Chief Investment Officer

Eden Arc Capital Management, LLC

One Penn Plaza, 36th Floor

New York, NY 10119

212-786-7414 Office

 Mobile

646-349-5964 Fax

jaylathen@edenarccapital.com

From: Darren Kane [mailto:darren.kane@missioncriticalservices.com]
Sent: Sunday, February 22, 2015 4:33 PM
To: Jay Lathen
Subject: FW: Vertical Capital Complaint

Jay,

I am passing along Christopher Riccardi's contact details. By way of background, Christopher is a partner at Sewart and Kissel and works in their Investment Management Group.

Here is a link to Christopher's biography:
<http://www.sewkis.com/professionals/xprProfessionalDetailsSewardKissel.aspx?xpST=ProfessionalDetail&professional=122>. In case the hyperlink does not work, I have included his biography below my signature.

Also, here is Chris's email address and telephone number:

riccardi@sewkis.com

[REDACTED]

Best Regards,

Darren Kane

Managing Partner

Co-Head, Legal and Compliance Division

Mission Critical Services

Telephone: (212) 734-0322

www.missioncriticalservices.com

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Biography:

Christopher Riccardi is a partner in Seward & Kissel's Investment Management Group. Christopher specializes in the formation and representation of U.S. and offshore hedge funds, fund of funds, private equity funds, investment advisers, commodity pool operators and commodity trading advisors; the representation of clients in various matters related to the investment management business, including seed capital and joint venture arrangements; and general securities and corporate matters. Christopher was recognized as a 2014 New York Metro Super Lawyer.

From: Riccardi, Christopher [<mailto:riccardi@sewkis.com>]

Sent: Sunday, February 22, 2015 2:57 PM

To: 'Darren Kane'

Subject: RE: Vertical Capital Complaint

Darren – we can absolutely handle this. Please feel free to pass on my contact information to your client. Thanks

From: Darren Kane [<mailto:darren.kane@missioncriticalservices.com>]
Sent: Sunday, February 22, 2015 8:51 AM
To: Riccardi, Christopher
Subject: RE: Vertical Capital Complaint

Chris,

One of my clients just got a subpoena that is similar to the enforcement action below, which involve violations of the 33 and 34 act. Do you or someone at you company have experience in these types of issues?

My best,

Darren

http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370539825272#.VCxri_IdWSo

SEC Charges Father and Son in South Carolina for Fraudulent Program...
Designed to Profit From Fate of Terminally Ill

FOR IMMEDIATE RELEASE
2013-190

Washington D.C., Sept. 20, 2013 —

The Securities and Exchange Commission today charged a father and son in Lexington, S.C., with operating a fraudulent investment program designed to illegally profit from the deaths of terminally ill individuals.

The SEC alleges that Benjamin S. Staples and his son Benjamin O. Staples deceived brokerage firms and bond issuers and made at least \$6.5 million in profits by lying about the ownership interest in bonds they purchased in joint

brokerage accounts opened with people facing imminent death who were concerned about affording the high costs of a funeral. The Stapleses recruited the terminally ill individuals into their program by offering to pay their funeral expenses if they agreed to open the joint accounts and sign documents that relinquished their ownership rights to the accounts or any assets in them.

According to the SEC's complaint filed in federal court in Columbia, S.C., once a joint account was opened and they had sole control, the Stapleses purchased discounted corporate bonds containing a "survivor's option" that allowed them to redeem the bonds for the full principal amount prior to maturity if a joint owner of the bond dies. Following the death of one of their terminally ill participants, the Stapleses redeemed the bonds early by citing the survivor's option to the brokerage firm and misrepresenting that the deceased individual had ownership rights to the bond. Their illicit profit was the difference between the discounted price of the bonds they purchased and the full principal amount they obtained when redeeming the bonds early.

"The Stapleses exploited the tragic circumstances surrounding a terminally ill diagnosis and turned the misfortune of others into a profit-making enterprise for themselves," said Kenneth Israel, Director of the SEC's Salt Lake Regional Office that investigated the case. "The Stapleses deceived brokerage firms and bond issuers by casting themselves as survivors of a joint ownership situation when the deceased had no legal ties to the bonds at all."

According to the SEC's complaint, the Stapleses operated what they called the Estate Assistance Program from early 2008 to mid-2012. They recruited at least 44 individuals into the program and purchased approximately \$26.5 million in bonds from at least 35 issuers. The Stapleses required the terminally ill individuals to sign three documents: an application to open a joint brokerage account with them, an estate assistance agreement, and a participant letter. The latter two documents required the terminally ill participant to relinquish any ownership interest in the assets in the joint account, including the bonds that the Stapleses later purchased.

The SEC alleges that after a terminally ill participant died, the Stapleses wrote a letter to the brokerage firm where the joint account was held and asked that the bonds be redeemed under the survivor's option. In their redemption request letters, the Stapleses falsely represented that the deceased participant was an "owner" of the bonds. The Stapleses did not inform the brokerage firms or bond issuers that the deceased program participants had signed the estate assistance agreements and participant letters relinquishing all ownership interest in the bonds.

The SEC's complaint charges Ben S. Staples and Ben O. Staples with violating Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The SEC is seeking disgorgement of ill-gotten gains plus prejudgment interest, financial penalties,

and permanent injunctions. The SEC's complaint names a different son of Ben S. Staples – Brian Staples also of Lexington, S.C. – as a relief defendant for the purposes of recovering \$400,000 in illicit profits that were transferred into his possession. Brian Staples had no active role in the scheme.

The SEC's investigation was conducted by Tanya Beard, Justin Sutherland, and Matthew Himes of the Salt Lake Regional Office. The SEC's litigation will be led by Thomas Melton.

From: Riccardi, Christopher [<mailto:riccardi@sewkis.com>]
Sent: Thursday, February 12, 2015 2:14 PM
To: 'Darren Kane'
Subject: RE: Vertical Capital Complaint

Hi Darren. We represent Vertical Capital so I can't do that – however it is a publicly filed document so you should be able to get a copy from the court directly.

Regards,

Chris

Christopher Riccardi
Partner

Tel: (212) 574-1535

Email: riccardi@sewkis.com

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SEWARD & KISSEL LLP
One Battery Park Plaza
New York, NY 10004

Fax: (212) 480-8421

Web: www.sewkis.com

Confidentiality Notice: This e-mail is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. If you have received this e-mail in error, please notify Seward & Kissel LLP by return e-mail and destroy the original message and all copies thereof.

From: Darren Kane [<mailto:darren.kane@missioncriticalservices.com>]
Sent: Thursday, February 12, 2015 2:04 PM
To: Riccardi, Christopher
Subject: FW: Vertical Capital Complaint

Chris,

Do you by chance have access to the Vertical Capital complaint that was filed by Miriam Freier, a former Altum employee?

My best,
Darren

From: Jonathan Sack [REDACTED]
Sent: Sunday, December 07, 2014 9:08 PM
To: Darren Kane
Cc: jsack@sackandsack.com
Subject: Re: Vertical Capital Complaint

Will do in the AM.

On Sunday, December 7, 2014, Darren Kane <darren.kane@missioncriticalservices.com> wrote:

Jonathan,

By way of background, I was a former officer with the SEC. I am now the owner of a compliance consulting firm located in Manhattan called Mission Critical Services. My company services approximately 200 investment advisers and broker-dealers.

I am interested in reading the Vertical Capital complaint that was filed last week. Would it be possible for you to please email it to me?

Thank you,

Darren Kane

Managing Partner

Co-Head, Legal and Compliance Division

Mission Critical Services

Telephone: (212) 734-0322

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Jonathan Sack, Esq.
Sack & Sack
110 East 59th Street, 19th Floor

New York, NY 10022
Tel: 212-702-9000 x 207
Fax: 212-702-9702
Cell: [REDACTED]
Email: jsack@sackandsack.com

**DECLARATION OF *[Insert Name]* CERTIFYING RECORDS
OF REGULARLY CONDUCTED BUSINESS ACTIVITY**

I, the undersigned, *[insert name]*, pursuant to 28 U.S.C. § 1746, declare that:

1. I am employed by *[insert name of company]* as *[insert position]* and by reason of my position am authorized and qualified to make this declaration. *[if possible supply additional information as to how person is qualified to make declaration, e.g., I am custodian of records, I am familiar with the company's recordkeeping practices or systems, etc.]*
2. I further certify that the documents *[attached hereto or submitted herewith]* and stamped *[insert bates range]* are true copies of records that were:
 - (a) made at or near the time of the occurrence of the matters set forth therein, by, or from information transmitted by, a person with knowledge of those matters;
 - (b) kept in the course of regularly conducted business activity; and
 - (c) made by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct. Executed on *[date]*.

[Name]

EXHIBIT J

In the Matter of Donald F. Lathen, Jr. et. al.
Admin. Proc. File No. 3-17387
Privilege Log Re Subpoena to
Seward & Kissel LLP dated
November 15, 2016

Document

Response/Privilege

Memorandum dated July 3, 2014, Entitled
"Joint Tenancy", From Jacob Wimberly,
Summer Law Clerk, To Scott Sambur, Esq.

Not Responsive to Subpoena; Attorney Work
Product.

EXHIBIT J

In the Matter of Donald F. Lathen, Jr. et. al.
Admin. Proc. File No. 3-17387
Privilege Log Re Subpoena to
Seward & Kissel LLP dated
November 15, 2016

Document

Response/Privilege

Memorandum dated July 3, 2014, Entitled
"Joint Tenancy", From Jacob Wimberly,
Summer Law Clerk, To Scott Sambur, Esq.

Not Responsive to Subpoena; Attorney Work
Product.

EXHIBIT K

In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

Respondent's Witness List¹

Name	Summary of Expected Testimony
<p><i>Dennisse Alamo</i> [Redacted] White Plains, NY</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Net worth and medical condition of her mother (Doris Cubilette) ● Communications with hospices and social workers concerning Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen, EndCare and/or the Eden Arc entities ● Knowledge concerning brokerage accounts, brokerage account agreements, fixed-income securities, joint tenancies with rights of survivorship, limited and general powers of attorney and taxes ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Augie Celliti</i> SecureVest Financial Group 163 Madison Avenue Morristown, NY 07960</p>	<ul style="list-style-type: none"> ● Terms and operation of bonds and CDs featuring a “survivor’s option,” including redemption ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with JP Morgan Clearing Corporation concerning Donald F. Lathen, Jr., the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

¹ The Eden Arc Respondents respectfully reserve the right to: (A) call witnesses not listed herein for purposes of rebuttal; (B) supplement the instant witness list to the extent additional witnesses are identified as a result of the review of documents that have not yet been produced in response to subpoenas that the Division served herein; and (C) expand the scope of the testimony of the witnesses listed herein to the extent required to respond to testimony elicited by the Division in the presentation of its case-in-chief.

<p><i>Neil Chelo</i> Benchmark Plus LLC 820 A Street Suite 700 Tacoma, WA 98402</p>	<ul style="list-style-type: none"> ● Terms and operation of bonds and CDs featuring a “survivor’s option,” including redemption ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Michael Cooney</i> Blue Sand Securities LLC 601 Lexington Ave. New York, NY 10022</p>	<ul style="list-style-type: none"> ● Marketing efforts on behalf of the Eden Arc Entities ● Communications with counsel and/or prospective counsel for Donald F. Lathen, Jr. and the Eden Arc entities ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Joy Davis</i> [Redacted] Paulsboro, NJ 08066</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Net worth and medical condition ● Communications with hospices and social workers concerning Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen, EndCare and/or the Eden Arc entities ● Knowledge concerning brokerage accounts, brokerage account agreements, fixed-income securities, joint tenancies with rights of survivorship, limited and general powers of attorney and taxes ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson, Kathleen Lathen and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Darren Domina</i> Haynes and Boone, LLP 30 Rockefeller Plaza 26th Floor New York, NY 10112</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and (3) disclosures to issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Margaret D. Farrell</i> Hinckley Allen & Snyder LLP 100 Westminster Street Suite 1500 Providence, RI 02903</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; (3) disclosures to issuers of bonds and/or CDs featuring a “survivor’s option”; and/or (4) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Robert G. Flanders, Jr.</i> Whelan, Corrente, Flanders, Kinder & Siket LLP 100 Westminster Street Suite 710 Providence, RI 02903</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; (3) disclosures to issuers of bonds and CDs featuring a “survivor’s option”; and/or (4) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Kevin Galbraith</i> Law Office of Kevin Galbraith 236 West 39th Street 5th Floor New York, NY 10001</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; (3) disclosures to issuers of bonds and CDs featuring a “survivor’s option”; and/or (4) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with issuers of bonds and CDs featuring a “survivor’s option” ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Robert Grundstein</i> Sabby Capital Management 10 Mountainview Road Upper Saddle River, NJ 07458</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disclosures to issuers of bonds and/or CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>David Hartman</i> Mission Critical Services Corp. 641 Lexington Ave. 15th Floor New York, NY 10022</p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Services provided to the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Bruce Hood</i> Withers Bergman LLP 430 Park Avenue 10th Floor New York, NY 10022</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and (3) tax treatment of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Patrick Horsman</i> 111 Kane Concourse Suite 603 Bay Harbor Isle, FL 33154</p>	<ul style="list-style-type: none"> ● Marketing efforts on behalf of the Eden Arc entities ● Communications with counsel and/or prospective counsel for Donald F. Lathen, Jr. and the Eden Arc entities ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>David Jungbauer</i> c/o Harlan Protass Clayman & Rosenberg, LLP 305 Madison Avenue New York, NY 10165</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Inception of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Understanding of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Darren Kane</i> Mission Critical Services Corp. 641 Lexington Ave. 15th Floor New York, NY 10022</p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Services provided to the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Donald F. Lathen, Jr.</i> c/o Harlan Protass Clayman & Rosenberg, LLP 305 Madison Avenue New York, NY 10165</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Relationship to Kathleen Lathen and David Jungbauer ● Inception of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Research concerning joint tenancies with rights of survivorship ● Research concerning terms and operation of bonds and CDs featuring a “survivor’s option,” including redemption ● Identification of prospective Participants ● Disclosures to and interactions with prospective Participants and/or their families ● Disclosures to and interactions with Participants and their families ● Communications with prospective Participants (and/or their families), Participants (and/or their families), hospices, hospice employees, social workers, broker-dealers, clearing houses, issuers of bonds and CDs featuring a “survivor’s option,” trustees, paying agents and other determining agents for issuers of bonds and CDs featuring a “survivor’s options,” investors and prospective investors in Eden Arc Capital Partners, LP, and other individuals and entities related to the development and execution of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities, including, but not limited to, all contracts, agreements, manuals, memoranda, formation documents, marketing material, financial statements, tax returns and “survivor’s option” redemption documentation ● Formation of and relationship between Eden Arc Capital Management, LLC, Eden Arc Capital Advisors, LLC and Eden Arc Capital Partners, LP ● Execution of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities before and after formation of Eden Arc Capital Partners, LP ● Communications with counsel concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; (3) disclosures to issuers of bonds and CDs featuring a “survivor’s option”; and/or (4) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option”

	<ul style="list-style-type: none"> ● Submission and processing of redemption requests ● Disputes with trustees and issuers of bonds and CDs featuring a “survivor’s option” ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency ● Impact on issuers of bonds and CDs featuring a “survivor’s option” arising from the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Interpretation of terms and eligibility requirements for the redemption of bonds and CDs featuring a “survivor’s option” ● Operation of Eden Arc Capital Partners, LP, including performance, fees, redemptions, preparation of financial statements, payment of taxes and communications with limited partners ● Custody of securities held in joint tenancy with rights of survivorship brokerage accounts ● Form ADV disclosures of Eden Arc Capital Management, LLC and Eden Arc Capital Partners, LP ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Kathleen Lathen</i> c/o Harlan Protass Clayman & Rosenberg, LLP 305 Madison Avenue New York, NY 10165</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Relationship to Donald F. Lathen, Jr. and David Jungbauer ● Inception of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Understanding of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Execution of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with prospective Participants and their families ● Communications with Participants and their families ● Communications with hospices, hospice employees and social workers ● Communications with the U.S. Securities and Exchange Commission concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Jeff Maier</i></p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Knowledge concerning brokerage accounts and brokerage account agreements ● Operation of joint tenancy with rights of survivorship brokerage accounts ● Redemption of bonds and CDs featuring a “survivor’s option” ● Disclosures concerning structure and structuring of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Stephen Mazotti</i> Eisner Ampner c/o William Connelly Drinker Biddle & Reath, LLP One Logan Square Suite 2000 Philadelphia, PA 19103</p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Preparation of financial statements ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Robert Milius</i></p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Jason Neroulis</i></p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; and/or (2) joint tenancies with rights of survivorship ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief in the instant matter
<p><i>Michael Robinson</i> c/o Harlan Protass Clayman & Rosenberg, LLP 305 Madison Avenue New York, NY 10165</p>	<ul style="list-style-type: none"> ● Educational and professional background ● Identification of prospective Participants ● Communications with prospective Participants (and/or their families), Participants (and/or their families), hospices, hospice employees, social workers, broker-dealers, clearing houses, issuers of bonds and CDs featuring a “survivor’s option,” trustees, paying agents and other determining agents for issuers of bonds and CDs featuring a “survivor’s options,” investors and prospective investors in Eden Arc Capital Partners, LP, and other individuals and entities related to development and execution of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Terms and operation of bonds and CDs featuring a “survivor’s option,” including redemption ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Execution of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr. and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>David Robbins</i> Kaufmann Gildin & Robbins LLP 767 Third Avenue 30th Floor New York, NY 10017</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disputes and/or litigation with brokerage firms and issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Eric Roper</i> 1025 Fifth Avenue New York, NY 10028</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; (3) disclosures to issuers of bonds and CDs featuring a “survivor’s option”; and/or (4) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Paul Sarkozi</i> Tannenbaum Helpert Syracuse & Hirschtritt LLP 900 Third Avenue New York, NY 10022</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>Thomas Tabor</i> c/o Rebecca Brazzao Thompson Hine, LLP 335 Madison Avenue 12th Floor New York, NY 10017</p>	<ul style="list-style-type: none"> ● Terms and operation of bonds featuring a “survivor’s option,” including redemption ● Role and activities of trustees and/or paying agents for issuers of bonds and CDs featuring a “survivor’s option” ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Michael Tannenbaum</i> Tannenbaum Helpert Syracuse & Hirschrift LLP 900 Third Avenue New York, NY 10022</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Beth Trachtenberg</i> Steptoe & Johnson 1114 Avenue of the Americas New York, NY 10036</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief

<p><i>William Yancey</i> c/o Mike Lyons Hilltop Securities</p>	<ul style="list-style-type: none"> ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Operation of joint tenancy with rights of survivorship brokerage accounts ● Redemption of bonds and CDs featuring a “survivor’s option” ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief
<p><i>Dianne Zeydel</i> Greenberg Taurig 333 SE 2nd Avenue Suite 4400 Miami, FL 33131</p>	<ul style="list-style-type: none"> ● Legal advice concerning: (1) structure and structuring of investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities; (2) joint tenancies with rights of survivorship; and/or (3) disputes and/or litigation with issuers of bonds and CDs featuring a “survivor’s option” ● Understanding of the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with the U.S. Securities and Exchange Commission and/or any other governmental or regulatory agency concerning Donald F. Lathen, Jr., Michael Robinson, EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Communications with Donald F. Lathen, Jr., Michael Robinson and/or others concerning EndCare, the Eden Arc entities and/or the investment strategy of Donald F. Lathen, Jr. and the Eden Arc entities ● Response to any issues or testimony presented by the U.S. Securities and Exchange Commission during the course of its case-in-chief