

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 LINDSAY S. MOILANEN

I, Lindsay S. Moilanen, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am employed as Counsel in the Division of Enforcement (the “Division”). I submit this declaration in support of the Division’s Motion in Limine to Preclude Certain Evidence and Testimony. I am fully familiar with the facts and circumstances herein.
2. Attached hereto as Exhibit A is a true and correct copy of Respondents’ Exhibit 138, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.
3. Attached hereto as Exhibit B is a true and correct copy of Respondents’ Exhibit 139, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.
4. Attached hereto as Exhibit C is a true and correct copy of Respondents’ Exhibit 197, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.
5. Attached hereto as Exhibit D is a true and correct copy of Respondents’ Exhibit 233, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

6. Attached hereto as Exhibit E is Respondents' Exhibit 274, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

7. Attached hereto as Exhibit F is Respondents' Exhibit 368, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

8. Attached hereto as Exhibit G is a true and correct copy of Respondents' Exhibit 369, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

9. Attached hereto as Exhibit H is a true and correct copy of Respondents' Exhibit 395, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

10. Attached hereto as Exhibit I is a true and correct copy of Respondents' Exhibit 396, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

11. Attached hereto as Exhibit J is a true and correct copy of Respondents' Exhibit 587, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

12. Attached hereto as Exhibit K is a true and correct copy of Respondents' Exhibit 627, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

13. Attached hereto as Exhibit L is a true and correct copy of Respondents' Exhibit 630, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

14. Attached hereto as Exhibit M is a true and correct copy of Respondents' Exhibit 631, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

15. Attached hereto as Exhibit N is a true and correct copy of Respondents' Exhibit 632, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

16. Attached hereto as Exhibit O is a true and correct copy of Respondents' Exhibit 663, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

17. Attached hereto as Exhibit P is a true and correct copy of Respondents' Exhibit 664, a July 26, 2013 email chain between Donald J. Lathen, Jr. and Larry Newman.

18. Attached hereto as Exhibit Q is a true and correct copy of Respondents' Exhibit 373, a December 24, 2014 out of office reply.

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

20. Attached hereto as Exhibit S is a chart of items constituting communications between Respondents and investors in the Fund ("Investor Communications") that should be excluded as irrelevant and hearsay. Please note that, in this and the other chart exhibits, the entries are pulled directly from Respondents Third Amended Exhibit List, dated December 21, 2016, and that Division used the following shorthand in column L related to objections for specific documents: 402 = relevance; 403 = cumulative; 802 = hearsay. Each chart contains the description of the Exhibits as provided by Respondents on their Exhibit List. If the Court does not find the descriptions of documents in this, and the other exhibit charts to be sufficient, the Division will provide copies of the individual documents or categories of documents as directed by the Court.

21. Attached hereto as Exhibit T is a chart of items constituting communications between Respondents and regulators ("Regulator Communications") that should be excluded as irrelevant and hearsay.

22. Attached hereto as Exhibit U is a chart of items constituting unrelated legal cases and investigations ("Unrelated Legal Matters") that should be excluded as irrelevant and hearsay.

23. Attached hereto as Exhibit V is a true and correct copy of Respondents' Exhibit 19, an August 20, 2010 memorandum from FBI Agent Grosse in the Staples Matter.

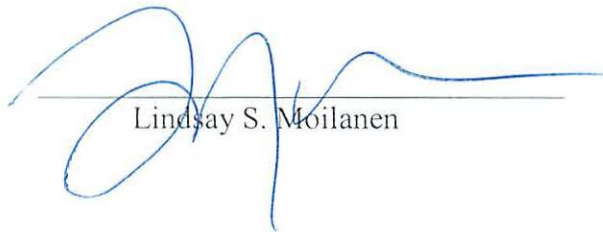
24. Attached hereto as Exhibit W is a true and correct copy of Respondents' Exhibit 1603, a December 6, 2013 from Margaret Farrell to Lathen replying that the FBI Memo Lathen had sent was "very interesting."

25. Attached hereto as Exhibit X is a true and correct copy of Respondents' Exhibit 869, an August 3, 2011 email chain between Lathen and Dennisse Alamo.

26. Attached hereto as Exhibit Y is a true and correct copy of Respondents' initial witness list, dated December 12, 2016.

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

Executed on January 11, 2017
New York, NY



Lindsay S. Moilanen