

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 19-cv-02594-RM-SKC

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MEDIATRIX CAPITAL INC., *et al.*,

Defendants,

and

MEDIATRIX CAPITAL FUND LTD., *et al.*,

Relief Defendants.

**PLAINTIFF UNITED STATES SECURITIES AND EXCHANGE COMMISSION'S
UNOPPOSED MOTION TO COMPEL THE A.L.A. TRUST TO TRANSFER REAL
PROPERTY TO RELIEF DEFEDANT KEYSTONE BUSINESS TRUST AND REQUEST
FOR EXPEDITED RULING**

Plaintiff United States Securities and Exchange Commission (“SEC”) respectfully requests that the Court compel the A.L.A. Trust to transfer two pieces of real property to Relief Defendant Keystone Business Trust. The SEC is requesting a ruling on an expedited basis because it recently learned that Defendant Michael Stewart, working with others who are aware of this Court’s Orders freezing assets, has attempted to sell one or both of these properties, including listing one of the properties for sale and making preparations to sell the other.

D.C.COLO.LCivR 7.1(a) Certification: the SEC conferred with counsel for Michael and Victoria Stewart about this motion and was told that they take no position on the SEC’s

request. The SEC also conferred with Michael Young who has no objection to this motion. The SEC will serve a copy of this motion on counsel for the Grantor of the A.L.A. Trust, Shawn Stewart, as well as on counsel for the A.L.A. Trust Trustee, Wind River Jiroch LLC.

A. BACKGROUND

On July 17, 2020, the SEC notified the Court of violations of the Court’s Orders freezing assets (ECF Nos. 10 and 38) (“Asset Freeze Order”) by at least Defendant Michael Stewart and Relief Defendants Victoria Stewart and Keystone Business Trust, as well as the Stewarts’ adult son, a non-party whom the SEC had also served with the Asset Freeze Order. ECF No. 137 (“Notice”). As set forth in the Notice, after this Court entered the Asset Freeze Order, Michael and Victoria Stewart transferred two properties out of the name of Relief Defendant Keystone Business Trust before transferring the properties through other entities and trusts and ultimately selling or mortgaging the properties in violation of the Asset Freeze Order. Two of the three properties described and defined in the Notice are held in the name of the A.L.A. Trust but are still under Michael and Victoria Stewart’s control—7349 E. Casitas Del Rio Drive Scottsdale, Arizona 85255 (the “Casitas Property”) and 8221 E. Sheridan Street Scottsdale, Arizona 85257 (the “Sheridan Property”)—and are subject to the Asset Freeze Order.

After the SEC filed the Notice, Michael and Victoria Stewart – and possibly others – continued to violate the Asset Freeze Order. Specifically, the SEC learned that the Casitas Property was listed for sale less than three weeks after the Notice was filed. *See* Ex. 1, Exclusive Right to Sell/Rent Listing Contract executed August 6, 2020. The Stewarts did not inform the Court or the SEC that they were attempting to sell this property. Upon contacting one of the real estate agents listing the Casitas Property, the SEC was told that Michael Stewart was

orchestrating the listing of the Casitas Property and was preparing the Sheridan Property for sale.

Ex. 2, Declaration of Jeffrey Felder (“Felder Decl.”) at ¶ 3.

B. A.L.A. TRUST DEVELOPMENTS

The SEC recently deposed Shawn Stewart, Michael Stewart’s brother, who is – at least on paper – the Grantor of the A.L.A. Trust, the entity that currently holds title to the two properties at issue. *See* Ex. 3, A.L.A. Trust Agreement.¹ The A.L.A. Trust was created on October 15, 2019, after the Asset Freeze Order had been entered. *Id.* Shawn Stewart testified that he created the A.L.A. Trust at Michael Stewart’s behest after receiving the following text message from his brother Michael:

I need a favor. I need you to be a Grantor for my trust. Basically you form it as the Grantor and assign it to my attorney as the Trust Protector and he then can assign assets to the trust. I just need someone I trust to do this and your (sic) the only one I trust. Will take 5 minutes to notarize and that's it.

Ex. 4 at 2. Michael Stewart then made clear that Shawn Stewart would have no continuing powers and that Michael Stewart would control the entity. *Id.* at 4. Shawn Stewart – who was unequivocal that he knew nothing about the Asset Freeze Order because Michael Stewart did not tell him about either the instant SEC enforcement action or this Court’s Asset Freeze Order – testified that:

- He knew nothing about the real properties held by the A.L.A. Trust. Ex. 5, Shawn Stewart transcript at 11:12-12:24.

¹ In Paragraph 16 of the Notice, the SEC stated that Aaron Stewart is the current owner of the Casitas Property. After the SEC filed the Notice, Aaron Stewart transferred the Casitas Property back to the A.L.A. Trust. It appears that the property was only transferred to Aaron Stewart so that he could obtain a \$325,000 loan using it as collateral. (*See* Notice ¶17.)

- He agreed to be Grantor of the A.L.A. Trust at Michael Stewart’s request. *Id.* at 48:2-49:21.
- He considered any trust assets to be Michael Stewart’s property and the A.L.A. Trust to be Michael Stewart’s trust. *Id.* at 50:19-51:12.
- That in October 2019, Michael Stewart gave him \$147,000 and directed him to send \$76,000 to Michael Stewart’s attorneys in this case as well as \$71,000 to attorneys representing him in a related criminal investigation. *Id.* at 26:12-18 and 30:2-31:21.²

The SEC also deposed Michael and Victoria Stewart’s long-time attorney James Roach who serves as Trustee of the A.L.A. Trust through his entity, Wind River Jiroch, LLC, the Trustee. Roach. He testified that:

- He was not told about the asset freeze order by Michael Stewart before facilitating the transfers of real property first from Relief Defendant Keystone Business Trust to Wind River Jiroch, LLC (an entity controlled by Roach), and then from Wind River Jiroch, LLC to the A.L.A. Trust, all of which occurred between September of 2019 and January of 2020. Ex. 6, James Roach II deposition transcript at 32:18-33:6.
- He was “quite surprised” when he learned of this lawsuit and the asset freeze because “[i]f roles were reversed, I would certainly have made sure that my lawyer knew about it.” *Id.* at 33:14-22.

Otherwise, Michael and Victoria Stewart’s attorney generally invoked the attorney-client privilege and confidentiality objections under Arizona state law when asked about

² Michael Stewart’s criminal attorneys have agreed to segregate and hold the monies received so they can be returned to the Receivership Estate. The SEC is still in discussions with Michael Stewart’s counsel in this case to have the monies returned.

communications with or directions received from Michael and Victoria Stewart. *Id.* at 14:4-15:2; *see also* Ex. 7, September 18, 2020 letter to M. Williams. However, Mr. Roach acknowledged that Michael and Victoria Stewart transferred real properties to him (purportedly as collateral to pay a past due debt) before directing him to transfer the properties into the A.L.A. Trust. Ex. 5 at 33:23-35:10.

C. DISCUSSION

As outlined in the Notice, both the Casitas Property and the Sheridan Property came to be held by the A.L.A. Trust through numerous violations of the Asset Freeze Order that involved Michael Stewart, Victoria Stewart, Aaron Stewart, and the Keystone Business Trust. As detailed in the Notice, and therefore not fully laid out here, two of the three properties described in the Notice were owned by the Keystone Business Trust at the time the Court issued the Asset Freeze Order and were transferred after Michael and Victoria Stewart were notified of that Order.³

Undeterred by this Court's Asset Freeze Order, Michael and Victoria Stewart – and others – repeatedly violated the Asset Freeze Order to access funds ordered to be frozen for the benefit of defrauded investors. As outlined in the Notice, Michael and Victoria Stewart transferred 3821 N. 85th Place Scottsdale, AZ 85251 (the “85th Place Property”) and the Casitas Property, both then held in the name of Relief Defendant Keystone Business Trust, to Wind River Jiroch LLC (“Wind River”), an entity controlled by their attorney, Roach, after the Asset Freeze Order was entered. Michael Stewart then directed his brother to create the A.L.A. Trust so that Roach could “assign assets to the trust,” (Ex. 4 at 2) which he did by subsequently

³ Michael and Victoria Stewart signed the quit claim deeds on September 23, 2019, the same day they requested the Court continue the preliminary injunction hearing and extend the time to file opposition papers. *Compare* ECF Nos. 137-5 and 137-11 *with* No. 15.

transferring both properties, via Quit Claim Deed, to the A.L.A. Trust (ECF Nos. 137-5 and 137-11). The A.L.A. Trust, in a deed signed by Roach on June 25, 2020 as manager of the Trustee, then transferred the Casitas Property to Aaron Stewart. *See* Notice, ECF No. 137 ¶ 16. That same day, Aaron Stewart used the Casitas Property as collateral to borrow \$325,000. *Id.* at ¶ 17. Aaron Stewart then transferred the property back to the A.L.A. trust on July 21, 2020. Michael Stewart then found a realtor to list the Casitas Property and it was subsequently advertised for sale, though the SEC does not believe it sold. Ex. 2, Felder Decl., at ¶ 4.⁴

The 85th Place Property was mortgaged on October 7, 2019 for \$295,000. *Id.* at ¶ 5. Wind River Jiroch, LLC was the borrower and, after closing costs, it received a disbursement of \$284,347.50. *Id.* The “Proceeds Authorization” form from the borrower instructed the title company to disburse the funds from the closing to an account titled “JIROCH LAW PLC IOLTA FOR WIND RIVER JIROCH LLC.” *Id.* The form was signed by Stewart’s attorney, James Roach II, and the account appears to be Mr. Roach’s attorney trust account. The 85th Place Property was then sold on January 3, 2020. *Id.* at ¶ 6. \$466,727.69 was received from the buyer and its lender for the purchase, and at closing those funds were disbursed to pay off the \$295,000 note issued on October 7, 2019, pay closing costs and real estate commissions, and the remaining \$135,162.44 was transferred to an account in the name of the A.L.A. Trust. *Id.* The “Proceeds/Funds Disbursement Instructions” were signed by James Roach II as member/manager of Wind River Jiroch, LLC, Trustee of the A.L.A. Trust. *Id.* The “Proceeds/Funds Disbursement Instructions” stated that the account was with Wells Fargo Bank,

⁴ The real estate agents listing the property for sale immediately removed the listing after the SEC (and Receiver) notified them that Michael and Victoria Stewart’s assets were frozen by Order of this Court. Ex. 2, Felder Decl. at ¶ 4.

Wells Fargo Clearing Services. *Id.* Our understanding is that the funds are held at Wells Fargo's broker-dealer, also known as Wells Fargo Advisors. *Id.*

Title company documents from the purchase of the property located at 8221 E. Sheridan St. Scottsdale, AZ 85257 (the "Sheridan Street Property"), show that the Sheridan Street Property was purchased on July 2, 2020 for \$455,000. On July 1, 2020, \$92,722 was wired from the A.L.A. Trust account at Wells Fargo Clearing Services to fund its purchase of the Sheridan Street Property. *Id.* at ¶ 7. The Settlement Statement from the purchase of the property indicates that the remainder of the purchase price was financed with a loan in the amount of \$364,700 and a \$5,000 earnest money deposit. *Id.*

Though the Casitas Property and the 85th Street Property were transferred multiple times, in reality they were always controlled by Michael and Victoria Stewart and were placed into names of other people and entities only to evade this Court's Asset Freeze Order. Similarly, Michael and Victoria Stewart used proceeds from the 85th Street Property to purchase the Sheridan Street Property in the name of the A.L.A. Trust so that they could renovate and sell the property without the Court learning its Asset Freeze Order was being violated.

Indeed, the SEC has recently deposed one of the real estate agents that assisted Michael and Victoria Stewart in purchasing the Sheridan Street Property as well as listing the Casitas Property for sale, and obtained a series of text messages between the agent and "Mike Stewart – ALA." Ex. 8. The text messages evidence that Michael Stewart was the person representing the A.L.A. Trust in both the purchase of the Sheridan Property and the listing of the Casitas Property for sale. *Id.* at p. 56 of 65.

In sum, both the Casitas Property and the Sheridan Property are frozen pursuant to the Asset Freeze because they are “assets, funds, or other property held by or under the direct or indirect control of Defendants or Relief Defendants whether held in any of their names or for their direct or indirect beneficial interests, ...” ECF No. 38 at 4. The properties are only held in the name of the A.L.A. Trust because of Michael and Victoria Stewart’s attempt to defeat the Asset Freeze through creating and holding these properties in the name of this entity, which is merely a nominee of Michael Stewart. Here, the SEC seeks to undo the Stewart’s transfer of assets in violation of the Court’s Asset Freeze Order by ordering that the Casitas Property be returned to the Keystone Business Trust where it was held when this Court entered its Order freezing the entity’s assets, as well as order that the Sheridan Property – which was purchased with proceeds from the 85th Place Property that was held by the Keystone Business Trust when the asset freeze was entered – be transferred to the Keystone Business Trust. Even were these assets not transferred from Keystone Business Trust in violation of this Court’s Asset Freeze Order (they indisputably were), the Court would still have the “inherent equitable power...to freeze the assets of a nonparty when that nonparty is dominated and controlled by a defendant against whom relief has been obtained in a securities fraud enforcement action.” *SEC v. Hickey*, 322 F.3d 1123, 1125 (9th Cir.2003). Here, the A.L.A. Trust is merely a nominee entity for Michael and Victoria Stewart created solely to defeat this Court’s Asset Freeze Order, and the Stewarts’ control over the A.L.A Trust cannot be disputed.

The SEC is in the process of obtaining additional evidence of these violations and attempting to claw back the illicit proceeds and anticipates seeking additional relief, including findings of contempt, a finding that the Stewarts’ assertion of attorney-client privilege and

confidentiality objections are abrogated by the crime-fraud exception, and seeking sanctions. At present, however, the SEC only seeks an Order compelling the A.L.A. Trust to deed the Casitas Property and Sheridan Property to Relief Defendant Keystone Business Trust such that they are preserved and available to return monies to defrauded investors. The SEC will work with the Court appointed receiver to transfer the properties to the receiver once any title issues are resolved.

WHEREFORE the SEC respectfully request that the Court issue an Order compelling the A.L.A. Trust to transfer properties located at 7349 E. Casitas Del Rio Drive, Scottsdale, Arizona 85255 and 8221 E. Sheridan Street, Scottsdale, AZ 85257 to Keystone Business.

Respectfully submitted this 9th day of October, 2020.

s/ Stephen C. McKenna
Stephen C. McKenna
Mark L. Williams
U.S. Securities and Exchange Commission
1961 Stout Street, Suite 1700
Denver, CO 80294-1961
(303) 844-1036 (McKenna)
McKennaS@sec.gov
WilliamsML@sec.gov

Certificate of Service

Vivian Drohan
Drohan Lee
680 Fifth Avenue
10th Floor
New York, NY 10019
vdrohan@dlkny.com

Jeffrey R. Thomas
Thomas Law LLC
3773 Cherry Creek North Dr., Suite 717
Denver, CO 80209
jthomas@thomaslawllc.com

Attorneys for Defendants Mediatrix Capital Inc., Blue Isle Markets Inc. (St. Vincent & the Grenadines), Blue Isle Markets Ltd., Michael S. Stewart, and Bryant Sewall and Relief Defendants Victoria M. Stewart, Maria C. Young, and Hanna Ohonkova

Additionally, I hereby certify that I have served the foregoing by email to the following non CM/ECF participants:

Michael S. Young
5406 South Cottonwood Court,
Greenwood Village, Colorado 80121
youngmikes@protonmail.com

Pro Se Defendant

Maria C. Young
5406 South Cottonwood Court
Greenwood Village, Colorado 80121
youngmikes@protonmail.com

Pro Se Defendant

Anthony Bingham
BINGHAM LAW
111423 South Higley Road
Suite 110
12 Mesa, Arizona 85206
(480) 832-1922

tony@binghamlawaz.com

Attorney for non-party Shawn Stewart, A.L.A. Trust Grantor

Robert Mitchell

TIFFANY & BOSCO, P.A.

2525 East Camelback Road, Seventh Floor

Phoenix, Arizona 85016

602-255-6000

rdm@tblaw.com

Attorney for non-party Wind River Jiroch LLC and James Roach II, A.L.A. Trust Trust

s/ Nicole Nesvig

Nicole Nesvig

Sr. Trial Paralegal

Type **ER**

**EXCLUSIVE RIGHT TO SELL/RENT
LISTING CONTRACT LEGAL LANGUAGE**

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. NO REPRESENTATION IS MADE AS TO THE LEGAL OR TAX CONSEQUENCES OF THIS CONTRACT. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT YOUR ATTORNEY OR TAX ADVISOR.

1. **EXCLUSIVE RIGHT TO SELL AND/OR RENT.** In consideration of the acceptance by the undersigned licensed Arizona real estate broker ("Broker") of the terms of this Listing Contract and Broker's promise to endeavor to effect a;

sale, rental, sale and/or rental, of the property described below ("Premises"), I or we, as owner(s) ("Owner"), employ and grant Broker the exclusive and irrevocable right commencing on August 3, 2020, and expiring at 11:59 p.m. January 1, 2021, to sell, rent, exchange, or option the Premises described in Paragraph 3.

NOTE: Owner acknowledges that signing more than one Exclusive Right to Sell/Rent or other form of listing contract for the same term could expose the Owner to liability for additional commissions.

2. **PRICE.** The listing price shall be: Sale \$ 599,000.00 Rental \$ per month, plus (in the case of a rental) all applicable lease or rental (transaction privilege) taxes, to be paid as described in the Owner's Profile Sheet ("Data Entry Form"), or such other price and terms as are accepted by Owner.

3. **THE PREMISES.**

a. **Location Information.**

Street Address: 7349 E CASITAS DEL RIO Drive Assessor's #: 212-03-697
City/Town: Scottsdale County: Maricopa State AZ Country: Zip Code: 85255
Legal Description: LOT 89 SILVERSTONE PARCEL F MCR 131414

b. **Fixtures and Personal Property.** Except as excluded in Section 3(c) below, any sale or rental of the Premises shall include all existing fixtures on the Premises, any existing personal property specified in Section 3(c) below, and all of the following items of personal property, to the extent located on the Premises:

- built in appliances
- ceiling fans and remote controls
- central vacuum hoses, and attachments
- draperies/other window coverings
- fireplace equipment (affixed)
- floor coverings (affixed)
- free standing range/oven
- garage door opener(s) and remote control(s)
- light fixtures
- mailbox
- media antennas/satellite dishes
- outdoor fountains and lighting
- outdoor landscaping (i.e. - shrubbery, trees and unpotted plants)
- shutters and awnings
- speakers (flush-mounted)
- storage sheds
- storm windows and doors
- stoves: gas-log, pellet, or wood-burning
- timers (affixed)
- towel, curtain/drapery rods
- wall mounted TV brackets and hardware (excluding TVs)
- water-misting systems
- window and door screens, sun shades

If owned by Owner, the following items also are included the sale of this listing:

- affixed alternate power systems serving the Premises (i.e. - solar)
- in-ground pool and spa/hot tub equipment and covers (including any mechanical or other cleaning systems)
- security and/or fire systems and/or alarms
- water purification systems
- water softeners

c. **Appliances and Additional Existing Personal Property.** The Premises shall include the following appliances which are presently located in or upon the Premises:

Refrigerator Washer Dryer Above Ground Spa/Hot Tub Above Ground Pool Other (describe below)

Description of above items: _____

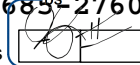
Additional items of personal property included in sale: _____

Fixtures and leased items NOT included in sale: _____


Leased items INCLUDED in sale: _____

Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |

Copyright© March 2017 by Arizona Regional Multiple Listing Service, Inc.

Owner's Initials 

61 4. **ACCESS AND LOCKBOX.** Owner acknowledges that a lockbox and any other keys left with or available to Broker will permit
62 access to the Premises by Broker or any other broker, with or without potential purchasers or tenants ("Prospects"), even when
63 Owner or occupant is absent. Owner further acknowledges that, from time to time, unauthorized persons may have gained
64 access to properties using lockboxes. Owner acknowledges that neither the Arizona Regional Multiple Listing Service ("ARMLS"),
65 nor any Board or Association of REALTORS®, nor any broker (including Broker), is insuring Owner or occupant against theft, loss
66 or vandalism resulting from any such access. Owner is responsible for taking such steps as may be necessary to secure and
67 protect the Premises during any time that a lockbox is being used and obtaining appropriate insurance.

68 

69 (Owner's Initials). Owner does / does not authorize Broker to install and use, on the Premises, a lockbox
70 containing the key to the Premises. If the Premises is occupied by someone other than Owner, Owner will provide to the Broker
71 the occupant's written permission for the installation of the lockbox and the publication and dissemination of the occupant's name
72 and telephone number. In the case of a Rental, in obtaining such permission from an occupant, Owner acknowledges that Owner
73 must comply with the Arizona Residential Landlord and Tenant Act, which provides, in part, that except in case of emergency,
74 the landlord shall give the occupant at least two days' notice of the landlord's intent to enter and enter only at reasonable times in
75 accordance with the Arizona Residential Landlord and Tenant Act.

77 5. **AGENCY RELATIONSHIPS.** Owner understands that Broker is Owner's agent with respect to this Listing. Owner understands
78 that Broker, either acting directly or through one or more licensees within the same brokerage firm, may represent a Prospect
79 interested in the purchase or rental of the Premises. Owner authorizes the Premises to be shown to any such Prospect and
80 understands that Broker may legally represent both Owner and Prospect in a transaction with the knowledge and informed
81 consent of both parties.

82 6. **COMPENSATION TO BROKER AND COOPERATING BROKERS.** Owner agrees to compensate Broker as follows:

84 a. **RETAINER.** Broker acknowledges receipt of a non-refundable retainer fee of \$ payable to Broker for initial
85 consultation, research and other services.

86 b. **COMMISSIONS.** If Broker produces a ready, willing and able purchaser or tenant in accordance with this Listing Contract, or
87 if a sale, executed lease agreement, option or exchange of the Premises is made by Owner or through any other broker, or
88 otherwise, during the exclusive term of this Listing Contract, **Owner agrees to pay Broker a total commission of:**

89 (i) For a **Sale:** of the purchase price or a
90 commission of a substantially similar allocable amount if the transaction is structured as other than a purchase or
91 lease.

92 a. **Cooperating brokers:** With regard to this Listing Contract, Broker intends to cooperate with all other brokers
93 except when not in Owner's best interest, and to offer compensation in the amount of % of the
94 gross purchase price or \$ to a buyer's broker, who represents the interest of the buyer(s), and
95 not the interest of Owner in a transaction. Any such cooperation shall not increase the total commission
96 payable by Owner.

97 (ii) For a **Rental:** of the lease price, as
98 calculated for the entire term of the initial lease, upon execution of lease agreement.

99 a. **Cooperating brokers:** With regard to this Listing Contract, Broker intends to cooperate with all other brokers
100 except when not in Owner's best interest, and to offer compensation in the amount of % of the
101 gross lease price as calculated for the entire term of the initial lease, or \$ to a tenant's broker,
102 who represents the interest of the tenant(s), and not the interest of Owner in a transaction. Any such
103 cooperation shall not increase the total commission payable by Owner.

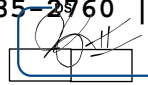
104 (iii) For a **Holdover or renewal of rental:** Regardless of whether this Listing Contract has expired, Owner agrees to
105 pay a commission of .

107 (iv) For a **Referral:** Broker may offer referral compensation to a referring broker who has no broker relationship with
108 the buyer/tenant or Owner. Any such cooperation shall not increase the total commission payable by Owner

109 c. **WITHDRAWN/CANCELLED LISTINGS.** The same amount of sale or rental commission shall be due and payable to Broker
110 if, without the consent of Broker, the Premises is withdrawn from this Listing Contract, otherwise withdrawn from sale or
111 rental, or is rented, transferred, or conveyed by Owner through any other broker or otherwise.

112 d. **PURCHASE BY TENANT.** If during the terms of any rental of the Premises, including any renewals or holdovers, or within
113 days after its termination, any tenant, or his heirs, executors, or assigns shall buy the Premises from Owner, the
114 sale commission described in Paragraph 6(b) shall be deemed earned by and payable to Broker.

Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |

Owner's Initials 

115 e. **PAYMENT FROM ESCROW OR RENT.** Owner instructs the escrow company, if any, to pay all such compensation to
116 Broker in cash or certified funds as a condition to closing or upon cancellation of the escrow, and irrevocably assigns to
117 Broker, to the extent necessary, money payable to Owner at the closing or cancellation of escrow. Broker is authorized to
118 deduct compensation from any rent or other monies received on behalf of Owner.

119 f. **AFTER EXPIRATION.** After the expiration of this Listing Contract, the same commissions, as appropriate, shall be payable if
120 a sale, rental, exchange, or option is made by Owner to any person to whom the Premises has been shown or with whom
121 Owner or any broker has negotiated concerning the Premises during the term of this Listing Contract, (1) within

30

122 days after the expiration of this Listing Contract, unless the Premises has been listed on an exclusive basis with
123 another broker, or (2) during the pendency, including the closing, of any purchase contract or escrow relating to the
124 Premises that was executed or opened during the term of this Listing Contract, or (3) as contemplated by Paragraph 6(e).

125 g. **FAILURE TO COMPLETE.** If completion of a sale or rental is prevented by default of Owner, or with the consent of Owner,
126 the entire sale or rental commission, as appropriate, shall be paid to Broker by Owner. If any earnest deposit is forfeited for
127 any other reason, Owner shall pay a brokerage fee equal to the lesser of one-half of the earnest deposit or the full amount of
128 the commission.

129 h. **CONSTRUCTION.** To the maximum extent permitted by applicable law, this Listing Contract shall be construed as limiting
130 applicable provisions of law relating to when commissions are earned or payable. In the event of any express disagreement
131 between any provision of this Listing Contract and the requirements of applicable law, the applicable provision of this Listing
132 Contract shall be deemed as modified to the minimum extent necessary to ensure compliance with applicable law.

133
134 **7. LISTING BROKER OBLIGATIONS AND AUTHORITY.** Broker agrees to make diligent and continued efforts to sell/lease the
135 Premises.

136 a. Owner authorizes Broker to place appropriate transaction signs on the Premises, including "For Sale" signs and "Sold" signs
137 OR "For Lease" and "Leased" signs.

138 b. Owner authorizes Broker to obtain information relating to the present mortgage(s) on the Premises.

139 c. Owner authorizes Broker to input the information on the Listing/Data Entry Form, and any photographs or video of the
140 Premises, to ARMLS for publishing and dissemination, in whole or in part, in printed or electronic form, including via the
141 internet, to ARMLS participants and the general public, even after the sale or lease of the Premises, or the cancellation or
142 expiration of the Listing. Owner is cautioned to protect valuable items from view in any photographs or videos of the
143 Premises or otherwise, and Broker has no responsibility for the dissemination of any images of such valuable items or for
144 the loss of such valuable items. Owner understands the public may have unlimited access to the images and may download
145 and/or copy them. Broker is authorized to report the sale, exchange, option or rental of the Premises, and its price, terms
146 and financing, for dissemination through ARMLS or otherwise to authorized ARMLS participants and to the public and for
147 use by companies engaged in selling information for various purposes, including but not limited to, appraisals or evaluations
148 of tax assessments.

149 d. Broker reserves the right to cancel this Listing Contract unilaterally for cause, which shall include, but is not limited to,
150 Broker's good faith belief that any service requested of Broker or any action undertaken by anyone other than Broker is (or
151 could be determined to be) in violation of any applicable law.

152
153 **8. ROLE OF BROKER.** Owner acknowledges that Broker is not responsible for the custody or condition of the Premises or for its
154 management (except under separate contract), maintenance, upkeep or repair.

155
156 **9. DOCUMENTS.** In connection with any sale or rental of the Premises, Owner consents to the use of the standard form of purchase
157 or rental contract used by Broker and all other standard documents used by Broker and the escrow and title companies.

158
159 **10. REALTOR® STATUS.** This agent is a REALTOR® member of the Scottsdale Area Association of Realtors
160 Association/Board of REALTORS® and subscribes to the REALTOR® Code of Ethics. This agent is not a member of any
161 REALTOR® Association/Board, but as a Subscriber to the Arizona Regional Multiple Listing Service, Inc., has agreed to abide
162 by the Standards of Conduct of MLS Subscribers.

163
164 **11. OWNER OBLIGATIONS.** In consideration of Broker's obligations, Owner agrees to:

165 a. Cooperate with Broker in carrying out the purpose of this Listing Contract, including referring immediately to Broker all
166 inquiries regarding the Premises' transfer, whether by purchase, rental or any other means of transfer.

167 b. Provide Broker with keys to the Premises and make the Premises available for Broker to show during reasonable times.

168 c. Inform Broker prior to leasing, mortgaging or otherwise encumbering the Premises.

169 d. Inform Broker of any past due HOA, tax or other Premises related fees. During the term of this Listing Contract, Owner
170 agrees to continue disclosing to Broker all additional information of the type required by the preceding sentence promptly
171 after Owner becomes aware of any such information.

172 e. Complete and return to Broker (i) if the Premises is to be sold, a Residential Seller's Property Disclosure Statement
173 ("SPDS") form, and (ii) if the Premises is to be leased, a Residential Lease Owner's Property Disclosure Statement
174 ("RLOPDS") and any disclosures required by the Arizona Residential Landlord and Tenant Act. These disclosures are

Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |



- 175 designed to disclose pertinent Property information. Broker shall have no responsibility, in whole or part, for the
- 176 preparation of the SPDS form, the RLOPDS form, or any disclosures required by the Arizona Residential Landlord and
- 177 Tenant Act.
- 178 f. Disclose in writing to Broker and Prospect(s) all known facts/conditions which materially and/or adversely affect the
- 179 Premises or the consideration to be paid for the purchase or lease of the Premises. (See Section 16 below for important
- 180 indemnification provisions.)
- 181 g. If applicable, sign and deliver to the escrow company a certificate indicating whether Owner is a foreign person or non-
- 182 resident alien pursuant to the **Foreign Investment in Real Property Tax Act (FIRPTA)**. FIRPTA is applicable if Owner is a
- 183 non-resident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate ("Foreign Person").
- 184 Owner agrees to complete, sign, and deliver to the applicable escrow company a certificate indicating whether Owner is a
- 185 Foreign Person. FIRPTA requires that a foreign Owner may have federal income taxes withheld, at the then current rate,
- 186 from the purchase price unless an exception applies. Owner is responsible for obtaining independent legal and tax advice.
- 187 h. Provide a **Disclosure of Lead-Based Paint and Lead-Based Paint Hazards** as required by the U.S. Department of
- 188 Housing and Urban Development, if any Premises structure was built before 1978.
- 189 i. Deliver a completed **Affidavit of Disclosure** in the form required by law to a buyer by the earlier of (i) five (5) days after
- 190 purchase contract acceptance, or (ii) seven (7) days prior to closing, if the Premises is located in an unincorporated area of
- 191 the county, and five or fewer parcels of property other than subdivided property are being transferred.
- 192 j. Owner shall deliver to broker a written five (5) year insurance claims history regarding the Premises (or a claims history for
- 193 the length of time Owner has owned the Premises if less than five (5) years) from Owner's insurance company or an
- 194 insurance support organization or consumer reporting agency, or if unavailable from these sources, from Owner, within five
- 195 (5) days after a purchase contract for the Premises is accepted by Owner.
- 196 k. Owner shall execute and/or deliver such other information and documentation as is customary and reasonable in
- 197 connection with a residential purchase and sale transaction or rental transaction, as applicable, in the State of Arizona.

199 **12. INSURANCE.** Owner acknowledges that Owner's or occupant's property could be damaged or stolen or persons visiting the
 200 Premises could be injured. Owner shall be responsible for obtaining appropriate insurance to cover such possible events.

202 **13. GENERAL WARRANTIES BY OWNER.** Owner represents and warrants:

- 203 a. **CAPACITY.** Owner has the legal capacity, full power and authority to enter into this Listing Contract, deliver marketable
- 204 title to the Premises and consummate the transactions contemplated hereby on Owner's own behalf or on behalf of the
- 205 party Owner represents, as appropriate.
- 206 b. **ADVERSE INFORMATION.** Owner has disclosed to Broker all material latent defects and information concerning the
- 207 Premises known to Owner, including all material information relating to: connection to a public sewer system, septic tank or
- 208 other sanitation system; the existence of any tax, judgment or other type of lien; past or present infestation by or treatment
- 209 for wood-destroying pests or organisms; and past or present repair of the Premises for damage resulting from wood-
- 210 destroying pests or organisms. During the term of this Listing Contract, Owner agrees to continue disclosing to Broker all
- 211 additional information of the type required by the preceding sentence promptly after Owner becomes aware of any such
- 212 information by updating SPDS, RLOPDS or other written notice.
- 213 c. **CORRECT INFORMATION.** All information concerning the Premises in this Listing Contract, including the Data Entry Form
- 214 relating to the Premises, or otherwise provided by Owner to Broker or to any Prospect is, or will be at the time provided,
- 215 and shall be at close of escrow or occupancy by a tenant, true, correct and complete. Owner agrees to notify Broker
- 216 promptly if there is any material change in such information until the latest to occur of the expiration of this Listing Contract,
- 217 any close of escrow or occupancy by a tenant.
- 218 d. **USE OF LISTING CONTENT; INTELLECTUAL PROPERTY LICENSE.** Unless Owner delivers to Broker a written
- 219 certification, expressly prohibiting the dissemination to a multiple listing service of the listing and any listing information
- 220 relating to the Premises, Owner acknowledges and agrees that all photographs, images, graphics, video recordings, virtual
- 221 tours, drawings, written descriptions, remarks, narratives, pricing information, and other copyrightable elements relating to
- 222 the Premises provided by Owner to Broker or Broker's agent (the "Owner Listing Content"), or otherwise obtained or
- 223 produced by Broker or Broker's agent in connection with this Listing Contract (the "Broker Listing Content"), and any
- 224 changes to the Owner Listing Content or the Broker Listing Content, may be filed with one or more multiple listing services,
- 225 included in compilations of listings, and otherwise distributed, publicly displayed and reproduced. Owner hereby grants to
- 226 Broker a non-exclusive, irrevocable, worldwide, royalty free license to use, sublicense through multiple tiers, publish,
- 227 display, and reproduce the Owner Listing Content, to prepare derivative works of the Owner Listing Content, and to
- 228 distribute the Owner Listing Content or any derivative works thereof. This non-exclusive license shall survive the
- 229 termination of this Listing Contract for any reason whatever. Owner represents and warrants to Broker that the Owner
- 230 Listing Content, and the license granted to Broker for the Owner Listing Content, do not violate or infringe upon the rights,
- 231 including any copyright rights, of any person or entity. Owner acknowledges and agrees that as between Owner and
- 232 Broker, all Broker Listing Content is owned exclusively by Broker, and Owner has no right, title or interest in or to any
- 233 Broker Listing Content.

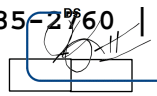
234 **Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |**

Owner's Initials 

- 235 14. **UTILITIES.** During the term of this Listing Contract, Owner shall maintain continuous service to the Premises of all utilities which
236 are currently connected to the Premises.
- 237
- 238 15. **RELIEF OF LIABILITY.** Broker is hereby relieved of any and all liability and responsibility for everything stated in Paragraphs
239 11.e, 11.f, 11.g, 11h, 11i, 12, and 13.
- 240
- 241 16. **INDEMNIFICATION.** Owner agrees to indemnify and hold Broker, all Boards or Associations of REALTORS®, ARMLS and all
242 other brokers harmless for, from and against any and all claims, expenses, liabilities, damages and losses arising from (i) any
243 misrepresentation, breach of warranty or breach of a promise by Owner in this Listing Contract, (ii) any incorrect information
244 supplied by Owner, (iii) any facts concerning the Premises not disclosed by Owner, including any facts known to Owner relating
245 to adverse conditions or latent defects, (iv) the use of a lockbox, or (v) any injury or damage to persons or property in connection
246 with the marketing or showing of the Premises. This indemnification shall survive Broker's performance and any transfer of title.
- 247
- 248 17. **OTHER OWNERS AND PROSPECTS.** Owner understands that other owners may make offers to sell or rent or may sell, rent,
249 exchange or option properties similar to the Premises through Broker. Owner consents to any agency representation by Broker
250 of such other owners before, during and after the expiration of this Listing Contract and understands that the Premises probably
251 will not be presented or shown to every Prospect encountered by Broker.
- 252
- 253 18. **ATTORNEYS' FEES.** In any action or proceeding to enforce any provision of this Listing Contract, or for damages sustained by
254 reason of its breach, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees, as set by
255 the court or arbitrator and not by a jury, and all other related expenses, such as expert witness fees, fees paid to investigators
256 and court costs. Additionally, if any broker hires an attorney to enforce the collection of any commission payable pursuant to this
257 Listing Contract, and is successful in collecting some or all of such commission without commencing any action or proceeding,
258 Owner agrees to pay such broker's reasonable attorneys' fees and costs and Owner also agrees to pay interest at the legal rate
259 on all compensation and other amounts owed or due to broker from the time due until paid in full.
- 260
- 261 19. **DEPOSITS.** Owner authorizes brokers to accept earnest deposits on behalf of Owner and to issue receipts for such earnest
262 deposits.
- 263
- 264 20. **RECOMMENDATIONS.** If Broker recommends a builder, contractor, escrow company, title company, pest control service,
265 appraiser, lender, home inspection company or home warranty company or any other person or entity to Owner for any purpose,
266 such recommendation shall be independently investigated and evaluated by Owner, who hereby acknowledges that any
267 decision to enter into any contractual arrangement with any such person or entity recommended by Broker will be based solely
268 upon such independent investigation and evaluation.
- 269
- 270 21. **SUBSEQUENT PURCHASE OR LEASE OFFERS.** Broker acknowledges that Owner has the right to accept subsequent offers
271 until the close of escrow in the case of a sale or until occupancy by a tenant in the case of a rental. Owner understands that any
272 subsequent offers accepted by Owner must be backup offers, namely, contingent on the cancellation or other nullification of any
273 contracts arising from the acceptance of earlier offers. Broker will change or maintain the correct MLS Listing status in
274 accordance to the ARMLS Rules and Regulations and any associated policies.
275 (Check if applicable) Accept backup offers. Withhold verbal offers. Withhold all offers once Owner accepts a
276 purchase or lease contract for the Premises.
- 277
- 278 22. **EQUAL HOUSING OPPORTUNITY.** The Premises will be presented in compliance with federal, state and local fair housing
279 laws and regulations.
- 280
- 281 23. **TIME OF ESSENCE.** Time is of the essence in the performance of the obligations contained in this Listing Contract.
- 282
- 283 24. **COUNTERPARTS AND ELECTRONIC COPIES.** This Listing Contract may be executed in any number of counterparts by the
284 parties hereto. All counterparts so executed shall constitute one Listing Contract binding upon all parties hereto, notwithstanding
285 that all parties do not sign the same counterpart. Any legible electronic copy of the Listing Contract which indicates that the
286 Listing Contract was fully executed shall be treated as an original Listing Contract.
- 287
- 288 25. **CONSTRUCTION OF LANGUAGE AND GOVERNING LAW.** The language of this Listing Contract shall be construed
289 according to its fair meaning and not strictly for or against either party. Words used in the masculine, feminine or neuter shall
290 apply to either gender or the neuter, as appropriate. All singular and plural words shall be interpreted to refer to the number
291 consistent with circumstances and context. Whenever the words "include", "includes" or "including" are used in this Listing
292 Contract, they shall be deemed to be followed by the words "without limitation". If this Listing Contract is used for a rental,
293 exchange, or option instead of a sale of the Premises, all language in this Listing Contract relating to the sale of Premises shall
294 be construed to apply as appropriate, to a rental, exchange, or option. For example, Owner shall be deemed to be Exchanger,
295 Optionor, or Landlord respectively. This Listing Contract shall be governed by the laws of the State of Arizona.

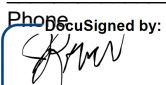
Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |

Copyright© March 2017 by Arizona Regional Multiple Listing Service, Inc.

Owner's Initials 

334 THE TERMS AND CONDITIONS IN THIS LISTING CONTRACT PLUS ALL INFORMATION ON THE DATA ENTRY FORM
335 ARE INCORPORATED HEREIN BY REFERENCE. COMMISSIONS PAYABLE FOR THE SALE, RENTAL OR MANAGEMENT
336 OF PREMISES ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS® OR MULTIPLE LISTING CONTRACT
337 SERVICE OR IN ANY MANNER OTHER THAN BY NEGOTIATION BETWEEN THE BROKER AND THE OWNER. BY
338 SIGNING BELOW, OWNER ACKNOWLEDGES THAT HE HAS READ, UNDERSTANDS AND ACCEPTS ALL TERMS AND
339 PROVISIONS CONTAINED HEREIN AND THAT HE HAS RECEIVED A COPY OF THIS LISTING CONTRACT.

340
341 **Wind River Jiroch LLCA L A Trust**

342 Print Name of Owner _____ Print Name of Owner _____
343
344
345 Street _____ City/Town _____ State _____ Zip _____
346
347
348 DocuSigned by: _____ Phone _____ Fax _____ Owner's email Address _____
349  8/6/2020
350
351 Owner's Signature _____ Mo/Da/Yr _____ Owner's Signature _____ Mo/Da/Yr _____
352

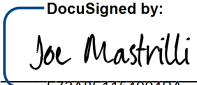
353 **ADDITIONAL OWNER(S) (If applicable)**

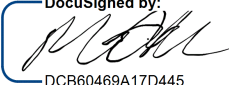
354
355
356 Print Name of Owner _____ Print Name of Owner _____
357
358
359 Street _____ City/Town _____ State _____ Zip _____
360
361
362 Phone _____ Fax _____ Owner's email Address _____
363
364
365 Owner's Signature _____ Mo/Da/Yr _____ Owner's Signature _____ Mo/Da/Yr _____
366

367 Additional Owner information attached.

368
369 In consideration of Owner's representations and promises in this Listing Contract, Broker agrees to endeavor to effect a sale, rental,
370 exchange, or option in accordance with this Listing Contract.

371
372 **Venture REI, LLC** **602-373-7927**

373 Firm Name (Broker) _____ Preferred Phone _____ Fax _____
374 DocuSigned by: _____
375  _____
376 By: **Joseph Mastrilli** 8/6/2020 **Joe@Nomagroup.com**
377 Agent's Signature _____ Agent Name (Printed) _____ Date (Mo/Da/Yr) _____ Agent's Email _____
378

379 DocuSigned by: _____
380  _____
381 Michael O'Malley 8/9/2020
382 DCB60469A17D445...

Joseph Robert Mastrilli | Venture REI, LLC 01 | 480-685-2760 |

Copyright© March 2017 by Arizona Regional Multiple Listing Service, Inc. For Use with Data Entry Forms 1, 2, 3

For Broker's office use only:
Broker's File/Lot No. _____ Broker/Manager Initials _____ Date: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 19-cv-02594-RM-SKC

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

MEDIATRIX CAPITAL INC., et al.,

Defendants,

and

MEDIATRIX CAPITAL FUND LTD., et al.,

Relief Defendants.

**DECLARATION OF JEFFREY D. FELDER IN SUPPORT OF PLAINTIFF'S MOTION
TO COMPEL THE A.L.A. TRUST TO TRANSFER REAL PROPERTY TO RELIEF
DEFEDANT KEYSTONE BUSINESS TRUST AND REQUEST FOR EXPEDITED
RULING**

I, JEFFREY D. FELDER, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the following is true and correct, that I am over 18 years of age, and I am competent to testify to the matters stated herein:

1. I am an attorney and have been licensed in Colorado since 2006. I am employed in the Division of Enforcement in the Denver Regional Office of the Securities and Exchange Commission ("SEC") and hold the title of Senior Counsel.

2. I was assigned to investigate the matter that resulted in this litigation and I have

actively assisted trial counsel in the litigation.

3. On September 18, 2020, I discovered that the property located at 7349 E. Casitas Del Rio Drive, Scottsdale, Arizona 85255 (the “Casitas Property”) was listed for sale on a public website containing active real estate listings. I immediately contacted SEC Trial Attorney Mark Williams and we called one of the real estate agents that the website identified as a listing agent for the Casitas Property. The real estate agent confirmed that he was one of the agents who was representing the seller who had listed the Casitas Property and also stated that Michael Stewart was the primary contact for the listing and that he understood the sale of the property was being directed by Michael Stewart. The real estate agent also stated that Michael Stewart was renovating a second property located at 8221 E. Sheridan Street, Scottsdale AZ 85257 (the “Sheridan Property”) and the real estate agent, based on communications with Michael Stewart, expected to list that property for sale soon. The real estate agent stated that Michael Stewart had not disclosed that his assets were frozen.

4. After we informed the real estate agent of the Court’s Asset Freeze Orders (ECF Nos. 10 & 38) he represented that he immediately deactivated the listing.

5. Based on title company records that I reviewed, I determined that the property located at 3821 N. 85th Place Scottsdale, AZ 85251 (the “85th Place Property”) was mortgaged in a transaction that closed on October 7, 2019 in the amount of \$295,000. Wind River Jiroch, LLC was the borrower and, after closing costs, it received a disbursement of \$284,347.50. The “Proceeds Authorization” form from the borrower instructed the title company to disburse the funds from the closing to an account titled “JIROCH LAW PLC IOLTA FOR WIND RIVER JIROCH LLC.” The form was signed by Michael Stewart’s attorney, James Roach II, and the

account appears to be Mr. Roach's attorney trust account.

6. The 85th Place Property was then sold on January 3, 2020. \$466,727.69 was received from the buyer and its lender for the purchase, and at closing those funds were disbursed to pay off the \$295,000 note issued on October 7, 2019, pay closing costs and real estate commissions, and the remaining \$135,162.44 was transferred to an account in the name of the A.L.A. Trust. The "Proceeds/Funds Disbursement Instructions" were signed by James Roach II as member/manager of Wind River Jiroch, LLC, Trustee of the A.L.A. Trust. The "Proceeds/Funds Disbursement Instructions" stated that the account was with Wells Fargo Bank, Wells Fargo Clearing Services. My understanding is that Wells Fargo Clearing Services indicates that the funds are held at Wells Fargo's broker-dealer, also known as Wells Fargo Advisors.

7. I also reviewed title company documents from the purchase of the Sheridan Property, which was purchased on July 2, 2020 for \$455,000. On July 1, 2020, \$92,722 was wired from the A.L.A. Trust account at Wells Fargo Clearing Services to fund its purchase of the Sheridan Property. The Settlement Statement from the purchase of the property indicates that the remainder of the purchase price was financed with a loan in the amount of \$364,700 and a \$5,000 earnest money deposit.

Dated: October 9, 2020

**JEFFREY
FELDER**

Digitally signed by JEFFREY
FELDER
Date: 2020.10.09 15:17:40
-06'00'

Jeffrey D. Felder

A.L.A. TRUST AGREEMENT

This Agreement and Declaration of Trust is made and entered into this 15th day of October, 2019 between SHAWN A. STEWART, an individual resident of Anthem, Arizona, as Grantor (hereinafter called "Grantor"), and WIND RIVER JIROCH LLC, a Wyoming limited liability company, having its principal business office in Cheyenne, Wyoming ("Trustee").

1. CREATION & ESTABLISHMENT

1.1 *Creation by Grantor; Acceptance by Trustees.* Grantor hereby creates an irrevocable inter vivos trust to be known as the A.L.A. TRUST to acquire, exchange, hold, and manage certain real and personal properties. The Grantor reserves no right or power to alter, amend, or revoke this Agreement, in whole or in part. The Trustee accepts the trust created hereby and agree to hold, administer, and distribute the Trust Estate upon the terms herein set forth.

1.2 *Conveyance.* Grantor does hereby convey, assign, transfer, and deliver to the Trustee the property more particularly described upon Schedule "A" attached hereto and by this reference incorporated herein TO HAVE AND TO HOLD the same and any other property that Trustee may hereafter at any time hold or acquire from Grantor or otherwise (the "Trust Estate") IN TRUST for the uses and purposes and subject to the terms and conditions set forth hereinafter. Grantor may make subsequent, periodic transfers constituting gifts of present interests for the benefit of the beneficiaries of this irrevocable trust.

1.3 *No Withdrawal or Alienation.* Grantor may not withdraw any of the property deposited hereunder from the possession of Trustee, and may not pledge or assign the same, or elect to receive any dividends or other payments on account thereof.

2. DEFINITION OF TERMS

In the interpretation or construction of the provisions of this Trust Agreement, the following words and phrases shall have the meanings set forth below:

2.1 "Grantor" means SHAWN A. STEWART, whether such person is living or deceased.

2.2 "Beneficiary" means such individual or individuals designated annually by the Trust Protector from Grantor's family including Grantor's Siblings and/or Grantor's Siblings Children.

2.3 All references and directives to the "Trustee" shall be construed to refer to whatever person, persons, or legal entity shall be serving as Trustee of this Trust at the applicable time. The term "Trustee" also includes "Co-Trustees" if the office of Trustee is held by more than one person. Whenever the Successor Trustee, or Successor Co-Trustees, shall succeed to the office of Trustee, the word "Trustee" thereafter refers to such Successor Trustee, or Successor Co-Trustees.

2.4 The term "Trust Estate" refers to all property which, at any point in time, is held by Trustee subject to the provisions of this Trust Agreement. Unless expressly limited, the term "property" means and refers to all assets and things of value of every kind, including but not limited to real

estate and interests in real estate, and personal property whether tangible or intangible.

2.5 The term "separate Trust Estate" refers to a portion of the Trust Estate (sometimes referred to as a "sub-trust") that is separately administered and accounted for by the Trustee. A separate Trust Estate shall for all legal and tax purposes have the status of a separate trust that is being administered by Trustee under the provisions of this Trust Agreement for convenience. With respect to the administration of a separate Trust Estate, the Trustee shall have all of the duties, and all of the powers and authority, including discretionary powers and authority, which are herein imposed upon or granted to the Trustee of this Trust, unless expressly provided to the contrary elsewhere in this Trust Agreement.

2.6 The terms "child," "children," "descendant" and "descendants" shall include legally adopted persons who were adopted prior to attaining the age of majority, and the descendants of any such legally adopted persons, unless preceded by the word "biological," in which event the term shall not include legally adopted persons. Stepchildren who have not been adopted by the stepparent shall not under any circumstances be construed to be "descendants" of the stepparent. For purposes of this Trust Agreement, a biological child of a person who has been legally adopted by another person under circumstances terminating the relationship of parent and child between the biological parent and the biological child during the biological parent's lifetime shall not be deemed to be a "child" or "descendant" of such biological parent for inheritance purposes following the death of the biological parent, notwithstanding any provisions of law to the contrary, and the provisions of this Trust Agreement shall be interpreted and administered accordingly.

2.7 A person is deemed to be "incapacitated" or "incompetent" if such person is incapable of managing his or her own financial affairs because of such person's physical or mental condition, or both. If a person who is serving as Trustee or Co-Trustee hereunder at the time he or she becomes incapacitated or incompetent, such person shall be deemed to have resigned the office of Trustee or Co-Trustee. A Grantor shall be presumed to be incapacitated or incompetent if the Grantor's incapacity or incompetency is confirmed in a letter or other writing signed by all of the following persons who are then living, competent, and able to act in their own behalf: the physician then most recently regularly attending to Grantor.

2.8 The masculine gender when used herein shall be deemed, where appropriate, to include the feminine or neuter, and the singular the plural, and vice versa. References to a female person's surname shall be construed to include all other surnames of such person resulting from changes in her marital status from time to time.

2.9 Whenever provision is made herein for payment for the "education" of a beneficiary, the term "education" shall be construed to include without limitation college and post-graduate study, or any other course of study or instruction for specialized, vocational, or professional training, so long as pursued to advantage by the beneficiary, at an institution of the beneficiary's choice; and in determining payments to be made for education, Trustee shall take into consideration and deem to be a cost of "education" the beneficiary's related living and transportation expenses to the extent that they are reasonable.

2.10 If a beneficiary is not living at the time he or she becomes entitled to distribution of any part

of the Trust Estate, the provisions of this Trust Agreement shall be construed and administered in accordance with the following:

(A) Whenever a distribution is directed to be made to a person upon condition that such person "survives" any other person, it is Grantor's intention that any applicable "anti-lapse" statute or rule of construction shall not apply to such distribution, and the gift shall lapse if the beneficiary does not survive such other person.

(B) Lapsed gifts shall be distributed in accordance with any alternative distribution instructions contained in this Trust Agreement, and shall not pass to the deceased beneficiary's heirs, spouse, descendants, or estate unless expressly so provided in this Trust Agreement.

(C) Whenever this Trust Agreement directs that a distribution be made to a person or to a class (group of persons), "per stirpes," it is intended that in the event a beneficiary who is entitled to receive a distribution is no longer living at the time he or she becomes entitled to such distribution, the gift to the deceased beneficiary or class member shall not lapse if the deceased beneficiary or class member left descendants who are still living at the time the deceased beneficiary or class member would have become entitled to receive the distribution. The property to which the deceased beneficiary or class member would have been entitled, if living, shall instead be distributed to the surviving descendants of the deceased beneficiary or class member as directed in the following subparagraph. If there are no living descendants of the deceased beneficiary or class member to whom a distribution was to be made per stirpes, the gift to the deceased beneficiary or class member shall lapse.

(D) Whenever a distribution is directed to be made to the descendants of a designated person, per stirpes, the amount to be distributed shall be divided into a sufficient number of equal shares to create one share for each child of the designated person who is then living, and one share for each deceased child of the designated person who left descendants who are then living (with the share created for the deceased child to again be divided among his or her descendants in like manner). A per stirpes distribution shall be divided and made at the first generational level among the descendants of the designated person or deceased beneficiary at which someone is living.

2.11 The definitions set forth in this Paragraph shall govern the interpretation and administration of this Trust Agreement, notwithstanding any other or contrary meaning of the defined terms that may be provided by law or custom in any jurisdiction. Whenever the term "separate property" is used herein, such term means property owned by an unmarried person, or property owned by a married person in which such person's spouse has no legal interest. Whenever the term "jointly-held/community property" is used herein, such term means property that is co-owned by persons who are husband and wife. Property herein referred to as "jointly-held/community property" shall be deemed to be property that has the character of community property of husband and wife if the property is real estate located in a community property jurisdiction (or as "community property with right of survivorship" if such form of ownership is permitted in the applicable jurisdiction), or constitutes property held by husband and wife as joint tenants with right of survivorship (or as tenants by the entireties if such form of ownership is permitted in the applicable jurisdiction) if the property is real estate located in a non-community property jurisdiction, or if the property is personal property and the husband and wife reside in a

non-community property jurisdiction.

3. DISTRIBUTIONS

3.1 *Distributions Prior to Death of Grantor.* So long as Grantor is living, Trustee shall hold, manage, invest and reinvest the Trust Estate, collect the income therefrom (if any), and shall pay over and distribute (a) the net income to the Beneficiary or Beneficiaries designated from time to time by the Trust Protector in monthly, quarterly, or annual installments as specified by the Trust Protector and (b) such amounts of the principal as Trust Protector shall determine from time to time.

3.2 *Distributions After Death of Grantor.* After the death of the Grantor, Trustee shall make distributions from the Trust Estate to the persons named by the Trust Protector and in such amounts as the Trust Protector shall then specify.

Trustee shall then divide the remaining Trust Estate, as then constituted (including any additions thereto by reason of the death of either Grantor), into such number of shares as the Trust Protector shall determine, whether outright or in trust, whether equal or unequal, for such of the Beneficiaries as the Trust Protector shall designate. Each such share shall constitute a separate Trust Estate (“Beneficiary’s Separate Share”).

3.3 *Beneficiaries Separate Shares.* Upon creation of the Beneficiaries Separate Shares, the Trustee shall either (A) pay over to the Beneficiary for whom the share was created, all of said separate Trust Estate as then constituted, free and clear of any trust; or (B) retain and administer the Separate Share Estate for a Beneficiary according to such terms and upon such conditions as the Trust Protector may specify upon creation and establishment of the Trust for the Beneficiary’s Separate Share. With respect to the administration of any such Separate Share Trust, Trustee shall have all of the powers, authority and discretion vested in Trustee under the provisions of this Agreement.

Trustee shall invest and reinvest the principal of every Beneficiary’s Separate Share Trust, collect the income therefrom, and apply so much of the net income or principal to the maintenance, education, support, and health of the Beneficiary as the Trust Protector periodically advises Trustee is necessary or advisable, without the intervention of any guardian or curator. Trustee shall accumulate, invest and reinvest the balance of undistributed income until final distribution from the Separate Share Trust.

Upon the death of any such Beneficiary after creation of the Trust Estate but before final distribution, Trustee shall pay over and distribute all of the principal and then undistributed net income of such Separate Share Trust Estate, as then constituted, to the then living descendants of such Beneficiary, per stirpes, or if none, to the Grantor’s then living descendants, per stirpes.

3.4 *Disability of Beneficiary.* If at any time the Trust Protector shall, in his sole and absolute judgment and discretion, determine that any beneficiary entitled to a payment hereunder is for any reason unable to apply such payment to his or her own best advantage, or if any beneficiary entitled to a payment hereunder shall be under a legal disability, the Trustee may render payment(s) for

such Beneficiary in any one or more of the following manners as in the Trustee's sole discretion shall be appropriate under the circumstances:

(A) The Trustee may make part or all of such payment directly to such beneficiary notwithstanding the disability or other circumstances;

(B) The Trustee may make part or all of such payment to the guardian of his or her property, or to a person who is providing care for the beneficiary if the beneficiary resides with such person at the time of such payment (and the receipt of such guardian or person shall be a full and complete discharge to the Institutional Trustee with respect to any such payment);

(C) The Trustee may apply part or all of such payment for the benefit of the beneficiary and for the benefit of anyone dependent upon such beneficiary, in such manner as the Individual Trustee shall deem best, and all amounts so applied shall be deemed to have been paid to the beneficiary;

(D) The Trustee may withhold part or all of such payment to the extent that the Individual Trustee shall, in such Trustee's sole and absolute judgment and discretion, determine that the amount available for payment to the beneficiary exceeds the amount needed to provide for the suitable maintenance, education, support and health of such beneficiary, after taking into consideration the needs of anyone dependent upon the beneficiary and all other financial resources available to the beneficiary of which the Individual Trustee shall have knowledge (and any income so withheld shall be added to the principal of the Separate Share Trust Estate from which it was derived).

The decision of the Trustee in any such case shall be final and binding upon all beneficiaries hereunder. Distributions upon final termination of any trust hereunder shall not be deemed to constitute "payments" within the meaning of this Paragraph.

3.5 Non-Alienation by Separate Share Beneficiaries. The Trustee shall only make payments of income and distributions of principal from a Separate Share Trust to the Beneficiary upon the written receipt of the Beneficiary receiving such income or principal. The Beneficiary shall have no right to anticipate, to pledge, to encumber or hypothecate or in any other manner to alienate their interest in either the income or the principal of the Separate Share Trust estate and their interest shall not be liable for their debts, contracts, or engagements or subject to execution, attachment, sequestration, or other legal process. No portion of the Separate Share Trust estate in the hands of the Trustee, either principal or income, shall be (i) subject to the control, claim, or disposition of any Beneficiary or of any spouse of any Beneficiary, or of any other person, until such income or principal shall be actually paid or distributed to such Beneficiary, or (ii) deemed assets in favor of the creditors of any beneficiary, or the creditors of any spouse of any beneficiary. No creditor, assignee, or spouse of any Beneficiary shall ever be entitled to take, appropriate, have recourse to, obtain the benefit of, or otherwise obtain any of the Separate Share Trust estate, by way of judgment, execution, attachment, garnishment, or any other proceeding, either in law or in equity. This section constitutes a restriction on the transfer of a Beneficiary's beneficial interest in a Separate Share Trust estate that is enforceable under applicable non-bankruptcy laws within the meaning of Section 541(c)(2) of the Bankruptcy Code or any other similar or successor statute.

3.6 Distribution at Termination if Trustee Then Holds Another Trust for Same Beneficiary. If at

any time any part of the principal or undistributed net income of any Separate Share Trust estate created hereunder shall be distributable to a person for whose sole benefit Trustee is then holding another separate Trust Estate hereunder, Trustee shall add the distribution to such other separate Trust Estate, to be held, administered, and distributed according to the terms of such other separate Trust Estate.

3.7 Disposition of Accrued Income at Death of Beneficiary. Upon the death of any Beneficiary, any accrued, accumulated, or unpaid net income, which would have been payable to such Beneficiary had such Beneficiary lived, shall be paid as income to the Beneficiary next succeeding in interest, unless otherwise provided herein or unless such net income shall have been validly appointed pursuant to a power of appointment herein conferred.

3.8 Early Termination if Continued Trust Administration Financially Uneconomical. If at any time the value of the principal of the original Trust Estate or any Separate Share Trust estate ("such Trust Estate") being administered hereunder shall be of such a small amount that Trustee shall determine, in Trustee's sole and absolute discretion, that continued administration of such Trust Estate is financially uneconomical, Trustee shall have the power to terminate the administration of such Trust Estate if Trustee in Trustee's sole and absolute discretion deems it advisable to do so. In the event of termination under the provisions of this Paragraph, the Trustee shall pay over and distribute all of the undistributed net income and principal of the such Trust Estate so terminated to or for the benefit of the person or persons then entitled to receive the income therefrom, or if any such person is then a minor, Trustee may make the distribution to a custodian (selected by Trustee) under the Uniform Transfers to Minors Act or similar law of the jurisdiction in which such minor then resides. Trustee's decision to terminate, or not to terminate, the administration of any such Trust Estate under the provisions of this Paragraph shall be final and binding upon all persons interested in such Trust Estate.

4. TRUST PROTECTOR

4.1 Appointment of Trust Protector. There is hereby created the position of "Trust Protector" hereunder. JAMES ROACH II is hereby appointed to the office of Trust Protector. If at any time JAMES ROACH II shall be unable or unwilling to serve as Trust Protector and fails to designate a Successor as provided at Section 4.3, STEPHEN HATCHER shall serve as Trust Protector. The powers, duties, and authority of the Trust Protector shall be as specified in this Article 4, the sections hereafter following, and elsewhere in this Trust Agreement.

4.2 Beneficiary Needs. The Trust Protector shall at reasonable intervals inquire into the financial needs of each beneficiary of this Trust, and each beneficiary of any separate Trust Estate being administered hereunder, with respect to whom the Trustee has the present power (whether or not discretionary) to make distributions of income, or distributions of principal, or both. The Trust Protector shall from time to time provide, in the manner and with the force and effect set forth elsewhere in this Trust Agreement, directions to the Trustee with respect to the amounts and timing of distributions of income and principal to be made by Trustee to or for the benefit of each such beneficiary. The term "beneficiary" as used in this subparagraph includes a living Grantor who is incapacitated or incompetent.

4.3 *Successor.* The Trust Protector may, by instrument in writing signed by him and delivered to the Trustee, appoint presently or designate for subsequent service a Successor Trust Protector. A Successor Trust Protector appointed or designated by his or her predecessor shall automatically succeed to the office of Trust Protector if the former Trust Protector dies, resigns, or for any other reason ceases or becomes unable to perform the duties of the Trust Protector. An appointed or designated Successor Trust Protector shall promptly notify the Trustee, in writing, that he or she has succeeded to the office of Trust Protector. Under no circumstances may Grantor or any person related or subordinate to Grantor within the meaning of Section 672(c) of the Internal Revenue Code be appointed as Trust Protector hereunder.

4.4 *Amendment.* The Trust Protector shall have the power to amend this Trust Agreement whenever, by reason of changes in applicable federal or state tax laws or regulations, or judicial or administrative rulings with respect thereto, the Trust Protector determines that an amendment is necessary or advisable to retain or accomplish the original tax planning objectives of this Trust. No amendment may be adopted pursuant to the authority hereby granted that in any material manner alters or modifies the definition of “beneficiary”, the beneficial interest of any beneficiary, or the timing or amounts of the distributions from this Trust to which any beneficiary is or may be entitled.

4.5 *Special Holdings.* From time to time, the Trust Protector may direct the Trustee to exchange assets of the Trust for interests in a limited liability company or limited partnership and thereafter to retain such interests in trust under the terms hereof. All such interests acquired and retained at the direction of the Trust Protector are hereinafter referred to as “Special Holdings.”

Except as otherwise provided herein, at any time that the Trust Estate includes any Special Holdings, the Trust Protector shall have the exclusive management responsibility for the operations of the Special Holdings and shall direct the Trustee in the exercise of all of the Trustee’s powers with respect to such Special Holdings, including, but not limited to, the Trustee’s powers in investing, reinvesting, voting and managing any such Special Holdings.

All directions of the Trust Protector to the Trustee shall be communicated to the Trustee in writing. The Trustee shall be entitled to rely conclusively on each such writing as a direction of the Trust Protector without further inquiry and shall have no liability hereunder and shall be indemnified from the Trust Estate for any action taken or omitted in accordance with any such writing. At all times during which there is no Trust Protector in office, the Trustee acting alone shall exercise all powers theretofore exercised upon the written direction of the Trust Protector.

5. TRUSTEE

5.1 *Individual and Corporate Co-Trustee.* If at any time the position of Trustee shall be held by Co-Trustees, of whom one is an individual (“*Individual Trustee(s)*”) and the other is a corporate Trustee (bank or trust company) (“*Institutional Trustee*”), the decision of the Individual Co-Trustee(s) shall be binding and controlling with respect to all matters requiring the exercise of discretion by the Trustee in connection with distributions of principal or income, and the *Institutional Co-Trustee* shall have no responsibility or liability whatsoever to any present or future beneficiary hereunder by reason of the manner in which such discretion is exercised.

No asset or investment which already comprised a part of the Trust Estate at the date the Institutional Co-Trustee assumed office shall be sold or otherwise disposed of without the consent of the Individual Co-Trustee(s), and if such Individual Co-Trustee(s) refuse(s) to grant such consent the Institutional Co-Trustee shall have no responsibility or liability whatsoever to any present or future beneficiary hereunder by reason of the consequences of continued retention of such asset or investment as a part of the Trust Estate.

5.2 Powers of Trustee. In addition to, and not in limitation of, any powers conferred upon fiduciaries by any statute or under general rules of law, Trustee is expressly authorized in Trustee's sole and absolute discretion to do and perform all of the acts and things that are more fully detailed and set forth upon Exhibit B to this Trust Agreement captioned "POWERS OF TRUSTEE," the provisions of which are by this reference incorporated herein and made a part hereof.

5.3 Exclusive Duties. Notwithstanding the provisions of Section 4.5, the Trustee shall have and retain the following exclusive duties with respect to any Special Holdings and shall exercise its powers in performing each such duty in the Trustee's sole discretion, and not at the direction of the Trust Protector:

- (A) To maintain custody accounts, brokerage accounts, and other asset accounts to (i) provide custody and safekeeping of any Special Holdings; (ii) receive trust income from Special Holdings; (iii) make disbursements in payment of trust expenditures attributable to Special Holdings; and (iv) make distributions to, or for the benefit of, trust beneficiaries attributable to Special Holdings;
- (B) To maintain storage of certificates or other evidence of ownership of Special Holdings;
- (C) To maintain trust records pertaining to Special Holdings;
- (D) To prepare and file all tax returns, information returns and other governmental filings required with respect to each trust created hereunder and to include in each such return or filing all information required by applicable law concerning Special Holdings;
- (E) To maintain an office for Trustee meetings and other trust business pertaining to Special Holdings;
- (F) To originate, facilitate and review trust accounts, reports and other communications pertaining to Special Holdings with the Trust Protector, income beneficiaries and unrelated third parties;
- (G) To respond to inquiries concerning Special Holdings from the Trust Protector, income beneficiaries and unrelated third parties;
- (H) To execute documents with respect to a trust's transactions concerning Special Holdings; and
- (I) To retain accountants, attorneys, agents and other advisors in connection with performance of the Trustee's duties concerning Special Holdings.

5.4 Delegation of Powers. Whenever the office of Trustee shall be held by Co-Trustees, the Co-Trustees may by unanimous written agreement delegate the authority and responsibility for performance of specific actions, and the authority to execute specific documents (including but not limited to the signing of checks), to fewer than all of the Co-Trustees. All actions taken and documents executed by the delegatee Co-Trustee or Co-Trustees shall be binding upon this Trust, its beneficiaries and all Co-Trustees with the same force and effect as if all of the Co-Trustees had joined in such action, or all of the Co-Trustees had joined in execution of such document.

5.5 Actions by a Majority of Co-Trustees. If at any time there shall be two or more Co-Trustees, and such Co-Trustees shall be unable to agree with respect to any matter relating to the administration of this Trust, the decision and actions of a majority of the Co-Trustees shall be controlling. Any document executed by fewer than all of the Co-Trustees in conformity with the provisions of this Paragraph shall be binding upon this Trust, its Trustee, its Trust Estate, and all beneficiaries hereunder.

5.6 Compensation to Trustee. Any party serving as an Individual Trustee hereunder shall be entitled to receive fair and reasonable compensation, and to reimbursement of expenses incurred, in the performance of such party's duties under the trusts hereby created. The reasonable compensation of an Individual Trustee for his or her services as Trustee or Co-Trustee shall not exceed the customary charges of individual trustees in the same locality for similar services.

Any Institutional Trustee shall be entitled to receive compensation for its services under this trust instrument in accordance with its schedule of rates published from time to time and in effect at the time the compensation is paid, including minimum fees and additional compensation as stated therein. The Grantor intends this provision to authorize specific rates or amounts of commissions within the meaning of any applicable state statute requiring such a provision. The Grantor recognizes that such compensation may exceed the compensation for such services in effect from time to time under the laws of the State of Wyoming.

Except as required by law, compensation paid or payable to any Trustee shall not be reduced by the compensation paid or payable to another Trustee for providing any of the services authorized herein.

5.7 Limitation of Liability of Trustee and Successor Trustee. The original Trustee, and any successor Trustee who succeeds to the office of Trustee, shall be presumed conclusively to have accepted the office of Trustee in reliance upon the provisions contained in this Paragraph. Grantor promises and agrees that:

(A) Every Trustee shall be deemed to have acted within the scope of its authority, to have exercised reasonable care, diligence and prudence, and to have acted impartially as to all persons interested unless the contrary be proved by affirmative evidence, and in the absence of such proof shall not be liable for loss arising from depreciation or shrinkage in value of any property authorized to be held or acquired.

(B) No Trustee, Deputy Trustee, nor Successor Trustee shall be liable for the acts or defaults of any other predecessor, existing, or successor Trustee or Deputy Trustee, including any liability for any act or failure to act by an investment advisor, for acting on a direction of the investment advisor or

implementing any such direction, and nor shall any of them be liable for any loss resulting from any action taken by the investment advisor or taken by any of them in accordance with a direction of the investment advisor. No Trustee, Deputy Trustee, or Successor Trustee shall have any obligation to investigate or confirm the authenticity of investment directions it receives or the authority of the person or persons conveying them.

(C) The Trustee and any Deputy or Successor Trustee serving as an investment advisor shall be deemed to have acted within the scope of their respective authority, to have exercised reasonable care, diligence and prudence, and to have acted impartially as to all persons interested unless the contrary be proved by affirmative evidence, and in the absence of such proof shall not be liable for loss arising from depreciation or shrinkage in value of any property authorized to be held or acquired. .

(D) No Trustee, Deputy Trustee, or Successor Trustee shall incur any liability for any action or inaction taken without knowledge of the occurrence of an event affecting the beneficial interests in the Trust unless a Trustee has written notice of the occurrence of such event.

(E) The Trustee shall incur no liability for any act or failure to act by the Trust Protector or the Investment Advisor as defined in Section 7.1, or for acting on a direction of the Trust Protector or Investment Advisor with respect to its implementation of any such direction, and it shall not be liable for any loss resulting from any action taken by the Trust Protector or Investment Advisor, or taken by it in accordance with a direction of the Trust Protector or Investment Advisor. Furthermore, the Trustee shall have no liability under this Agreement to any trust beneficiary or any other person whose interest arises under this Agreement for the Trustee's good faith reliance on the provisions of this Paragraph or any other provision of this Agreement concerning Special Holdings.

(E) Trustee shall have no liability to Grantor, or to any present or future beneficiary of this Trust, by reason of having, during Grantor's lifetime, elected to invest all or any portion of the cash and property of Trust Estate in the purchase of and payment of premiums upon one or more policies of life insurance upon the life of the Grantor, instead of investing such cash or property in any other type of investment.

(F) During Grantor's lifetime, Trustee shall have no obligation to independently investigate or take notice of any change in the financial condition, strength, or performance of any insurance company to whom premiums are paid from the Trust Estate, or from whom insurance contracts have been or are purchased by the Trustee, or to independently monitor or take notice of the adequacy of dividends paid with respect to any insurance contracts comprising a part of the Trust Estate, or to consider whether any changes should be made in option elections under any insurance contracts held in the Trust Estate, or to consider the advisability of effecting an exchange of any insurance contract held in the Trust Estate for another insurance contract under the provisions of Section 1035 of the Internal Revenue Code, or the advisability of modifying or surrendering for its cash value any insurance contract held in the Trust Estate, unless and until a Grantor shall expressly, in a writing delivered to Trustee, suggest that Trustee ought to so investigate or monitor a particular insurance company or insurance contract, or ought to consider changing, exchanging, modifying or surrendering a particular insurance contract, in which event Trustee's duty to act shall arise only with respect to the specific actions, and the specific insurance contracts or insurance companies, identified in a Grantor's said written suggestion. During any periods of time in which

a Grantor is unable to act in such Grantor's own behalf, the written suggestion contemplated by this paragraph may be given by any beneficiary entitled to distribution of any portion of the principal of the Trust Estate upon the death of Grantor.

(G) Trustee shall have no liability for mismanagement or negligence to Grantor, or to any present or future beneficiary hereunder, by reason of having continued in force, and continued to pay premiums upon, any insurance contract contributed to the Trust Estate by Grantor. If a new insurance contract is acquired by Trustee, Trustee shall promptly furnish a copy of such insurance contract to Grantor. If, subsequent to the date of Grantor's receipt of such copy of the new insurance contract, Grantor makes additional contributions of cash or property to this Trust, Trustee shall have no liability for mismanagement or negligence to Grantor, or to any present or future beneficiary hereunder, by reason of having acquired such insurance contract or by reason of having continued the same in force and having continued to pay premiums thereon.

5.8 Resignation or Removal of Trustee. Any trustee acting hereunder may resign at any time by delivering to the Trust Protector a separate acknowledged instrument and such resignation shall be effective upon a successor trustee, whether institutional or individual, being appointed. The remaining Trustee(s) may approve the accounts of and give a full and complete release and discharge to, any such resigned or removed Trustee without liability to any present or future beneficiary hereunder.

5.9 Removal of Trustee. The Trust Protector shall have the power to remove any institutional or individual Trustee or Co-Trustee without cause or for any reasons the Trust Protector deems to be sufficient by a written instrument delivered to the Trustee not less than thirty (30) days prior to the effective date of such removal.

5.10 Successor Trustee Appointment. If at any time a Trustee shall resign, shall be removed or shall, for any other reason cease to, or become unable to, act as Trustee hereunder and there shall exist a vacancy in the office of Trustee, such vacancy shall be filled by appointment made by the Trust Protector through a separate acknowledged instrument delivered to the Trustee so appointed. The Successor Trustee appointment shall be effective at such time as may be specified by the Trust Protector and, until such appointment becomes effective, the Trust Protector may revoke the appointment. A Successor Trustee shall qualify by filing its consent to act with the trust records.

The Trust Protector may not appoint any individual to serve as a Successor Individual Trustee who is disqualified from holding the position by law or pursuant to any other provisions of this Trust Agreement. Any party appointed as a Successor Institutional Trustee must be a bank or trust company having not less than two (2) full-time trust officers, unless after reasonable inquiry no bank or trust company can be found which is willing to serve as Trustee. Under no circumstances may the Grantor or any person related or subordinate to Grantor within the meaning of Section 672(c) of the Internal Revenue Code be appointed as Trustee hereunder.

If no Successor Trustee is appointed and accepts appointment within sixty (60) days after resignation by or removal of a Trustee, the resigned or removed Trustee may appoint a Successor Trustee or may bring an action in an appropriate tribunal for the appointment of such Successor Trustee. The costs and expenses of any such action, including without limitation the compensation

of attorneys and guardians, shall be paid from principal or income, or both of the Trust Estate, as the Trust Protector shall determine in his sole discretion.

5.11 *Successor Trustee Authority and Liability.* A Successor Individual or Institutional Trustee shall have, from and after its appointment or succession to office hereunder, and without any assignment or other act by any person, all the title, interest, rights and powers, including discretionary rights and powers, which are by the provisions of this Agreement created to vest in *such* Trustee herein. A Successor Trustee shall not be personally liable or responsible for any act or default of any predecessor Trustee or for any loss or expense resulting from or occasioned by anything done or neglected to be done in the administration of the Trust Estate prior to such successor Trustee becoming Trustee hereunder.

5.12 *No Bonding or Court Supervision.* No Trustee or successor Trustee shall be required in any jurisdiction: (1) to provide any bond as Trustee; or (2) to qualify before, be appointed by, or account to any court except in cases of breach of trust; or (3) to obtain the approval or order of any court in connection with the exercise of any power or discretion herein granted to the Trustee.

6. CONTRIBUTIONS TO TRUST ESTATE

6.1 *Contributions.* Grantor or any other person may, at any time and from time to time, transfer, deliver, bequeath or devise to Trustee additional cash or property acceptable to Trustee, which shall thereupon become a part of the Trust Estate and shall be held, managed, and paid over by Trustee, in accordance with and subject in all respects to the provisions of this Agreement. Trustee shall not, however, accept any gift of a life insurance policy unless Trustee already holds assets which, immediately prior to the gift, are not subject to the beneficiaries' right of withdrawal hereafter mentioned, and are readily convertible to cash in an amount at least equal to the value of the life insurance policy for federal gift tax purposes. Trustee may not make payment of insurance premiums at any time while any beneficiary holds unexpired rights of withdrawal with respect to a contribution to this Trust, unless Trustee, at the time of making such premium payment and continuously thereafter until expiration of all such rights of withdrawal with respect to such contribution, holds other assets that are readily convertible to cash in an amount sufficient to fully satisfy such withdrawal rights. Any property, whether originally or subsequently transferred to Trustee, may be commingled and treated as part of a single trust. All property contributed to this trust by an individual Grantor shall be conclusively presumed to have constituted the sole and separate property of such Grantor at the time of contribution thereof regardless of the source of such contribution. All property contributed to this trust by both Grantor shall be conclusively presumed to have constituted the community property of such Grantor at the time of contribution thereof regardless of the source of such contribution.

6.2 *Accrued Income and Dividends.* Trustee shall be entitled to all income accrued and unpaid on any securities at the time of their receipt, and except as otherwise provided in the attached "Powers of Trustee," the same shall be income. No dividend, the record date of which is prior to the delivery to Trustee of the shares on which such dividend is declared, shall become property of the trust.

6.3 *Beneficiaries' Rights of Withdrawal.* Each contribution to the Trust Estate during any year by or on behalf of a Grantor, or by any other person (excluding gifts to the Trust Estate made by Will

and also excluding donations by a Grantor to the extent such Grantor shall have directed in writing at the time of such donation that all or any portion thereof shall not be subject to the rights of withdrawal contained herein) is hereafter referred to as a "Withdrawn Contribution." Each person who would, as of the date of a Withdrawn Contribution, be entitled to distribution of any portion of the principal of the Trust Estate in the event of the death of Grantor, shall have the right to withdraw from the Trust Estate all or a portion of such Withdrawn Contribution upon the following terms and conditions:

(A) *Individual Annual Limitation on Withdrawals.* The aggregate of all withdrawals from the Trust Estate by any one beneficiary during any one calendar year shall not exceed \$5,000.00, or five percent (5%) of the value of the Trust Estate at the time the last withdrawal is made, whichever shall be the greater amount, PROVIDED, HOWEVER, if the Withdrawn Contribution consisted of an existing policy of life insurance having a cash value, the individual annual limitation on withdrawals by one beneficiary for the calendar year in which such Withdrawn Contribution was made shall be an amount equal to the annual federal gift tax exclusion amount provided by I.R.C. section 2503(b) in effect for such calendar year.

(B) *Aggregate Limitation on Withdrawals.* With respect to each Withdrawn Contribution, the aggregate amount that may be withdrawn from the Trust Estate by all beneficiaries combined shall not exceed the amount of such Withdrawn Contribution. If the total amount requested to be withdrawn by all beneficiaries with respect to a Withdrawn Contribution exceeds the said maximum aggregate withdrawn amount, the Trustee shall distribute the maximum aggregate withdrawn amount in equal shares among the beneficiaries requesting withdrawal, subject to the limitation on individual withdrawals stated in the preceding subparagraph. Any amount that cannot be distributed to one beneficiary by reason of the said individual limitation shall be added to the amount available for distribution to other beneficiaries with respect to such withdrawn Contribution.

(C) *Notification to Beneficiaries.* Each beneficiary designated herein as having a withdrawal right with respect to a Withdrawn Contribution, or his or her guardian if the said beneficiary is a minor or is under a legal disability, shall be kept reasonably informed by the Trustee of all Withdrawn Contributions that are made or expected to be made. Such information shall be in the form of written notice given promptly after a Withdrawn Contribution to the trust is received. Such notice shall be deemed to have been given on the date the same is personally delivered to the beneficiary or to the beneficiary's legal guardian, or on the date when the same is deposited in the United States Mail, postage fully prepaid, addressed to the beneficiary's last known mailing address as shown in the Trustee's records.

(D) *Time Allowed for Exercise of Withdrawal Rights.* The right of withdrawal granted herein with respect to each Withdrawn Contribution must be exercised by a beneficiary within thirty (30) days following the giving of the written notice described in the preceding subparagraph, and if not so exercised, such right of withdrawal shall lapse, except when such lapse would constitute a taxable gift, in which event the right of withdrawal shall continue until the lapse thereof will not constitute a taxable gift.

(E) *Manner of Making Requests for Withdrawals.* Withdrawals shall be by written request

delivered to the Trustee prior to the expiration of the period allowed for exercise of the beneficiary's withdrawal rights. If the beneficiary is a minor or is otherwise under a legal disability during a part or all of a withdrawal period, the guardian of the beneficiary's estate may exercise such withdrawal right on the beneficiary's behalf.

(F) *Satisfaction of Withdrawal Request.* The Trustee may satisfy the exercise of a beneficiary's withdrawal right by distributing cash or other property of the Trust Estate to the beneficiary requesting the withdrawal. Ownership interests in insurance policies may be distributed to beneficiaries in satisfaction of withdrawal rights only if Trustee is satisfied, based upon an analysis of then prevailing law, that Trustee's right to satisfy a withdrawal request by distribution of an ownership interest in an insurance policy would not defeat the tax planning objectives of this Trust.

7. INVESTMENT ADVISOR

7.1 *Appointment.* STEPHEN A. HATCHER, CFP, is hereby appointed Investment Advisor (the "Investment Advisor"), with full power to manage the investments of the trust, including power to purchase, sell, and retain all of the trust assets, and power to exercise voting, subscription, conversion, option and similar rights with respect to such property and to participate in or consent to any voting trust, reorganization, merger, dissolution or other action affecting any such property. The Institutional Trustee shall follow the directions of the Investment Advisor with respect to all matters relating to the management and investment of trust assets.

7.2 *Resignation and Removal of Investment Advisor and Successor Appointment.* An Investment Advisor may resign by a separate acknowledged instrument delivered to the Trust Protector, such resignation to be effective upon a successor Investment Advisor being appointed. Upon the resignation of the Investment Advisor, the Trust Protector may appoint a successor Investment Advisor. The Trust Protector may remove the Investment Advisor and appoint a successor Investment Advisor to act upon such terms and conditions as the Trust Protector may determine.

If no successor Investment Advisor has qualified within thirty (30) days after the resignation or removal of the Investment Advisor, then the Institutional Trustee shall become responsible for the investment of the trust assets (beginning with the 31st day following the resignation or removal of the Investment Advisor) and the provisions regarding the Investment Advisor shall not apply until and unless a successor Investment Advisor is properly designated and accepts its designation as such.

Any appointment of a successor Investment Advisor pursuant to this trust instrument shall be made by a separate acknowledged instrument delivered to both the Institutional Trustee and the Individual Trustee, and such appointment shall be effective at such time as may be specified in such instrument and, until such appointment becomes effective, the Trust Protector may revoke the appointment. A successor Investment Advisor shall qualify by filing its consent to act with the trust records.

7.3 *Investment in and Retention of Securities.* The Investment Advisor, is authorized to invest in or retain any securities or other property, real or personal (within or without the United States), including but not limited to any security as defined by the Securities Act of 1933, any contract of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act, and any other investment ("investment"), including, without limitation, shares or interests in any

private investment fund, joint venture, or other general or limited partnership, limited liability company, or an open-end or closed-end management type investment company or unit investment trust, whether registered under the Investment Company Act of 1940 or unregistered; any money market instrument; precious metals; foreign exchange; structured products; and swaps, caps, collars and other derivative instruments of a financial nature (and any diversification requirement that would otherwise apply to such investment, including one imposed by a Prudent Investor Act, is negated).

The Trustee, at the direction of the Investment Advisor, is authorized to invest in or retain any securities or other property, real or personal (within or without the United States), including without limitation: any security as defined by the Securities Act of 1933, any contract of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act, shares or interests in any private investment fund, private equity or venture capital fund, hedge fund, common trust fund, joint venture, general or limited partnership, limited liability company, statutory or common law business trust, statutory trust, real estate investment trust or an open-end (including any mutual fund) or closed-end management type investment company or unit investment trust, whether registered under the Investment Company Act of 1940 or unregistered, any money market instrument, bank deposit account (including but not limited to savings, time, certificate of deposit and transaction accounts), precious metal, foreign exchange, structured product, insurance contract, options, options on futures and variable forward contracts, swaps, caps, collars and other derivative instruments of a financial nature, notwithstanding the fact that the trustee, investment manager or custodian, its respective parent or any affiliate, provides services (whether as manager, issuer, underwriter, distributor, custodian, advisor, agent, or otherwise) with respect to any such investment and further notwithstanding that the trustee, investment manager, custodian or its respective parent or any affiliate may receive compensation with respect to any such investment (in addition to trustee's commissions), so long as the total compensation received is reasonable, and neither the Trustee nor the Investment Advisor shall have any duty to make further disclosure. To the extent permitted by local law, this provision is intended to be a specific override of any contrary provision of law prohibiting such additional fees or otherwise requiring either a reduction in Trustee's commissions or Investment Advisory fees or an election between such additional fees and such commissions or fees. Any diversification requirement that would otherwise apply, including one imposed by a Prudent Investor Act, is negated.

7.4 Employment of Administrative Services, Including Affiliates. The Trustee is authorized, to employ such agents, advisors and other counsel, including but not limited to entities affiliated with the Trustee or Investment Advisor, and to pay out of income or principal or both the reasonable charges and fees of such agents, advisors and counsel, as it shall in its sole discretion determine, provided, however, that the Investment Advisor shall have the sole power to select brokers and dealers for the sale or purchase of any securities or other investment property in the trust. This authorization may include, but shall not be limited to, an affiliated broker acting in a principal or agency capacity for equity and fixed income securities, routing orders for over-the-counter (OTC) stocks to a market maker affiliated with any Trustee or Investment Advisor, routing listed stocks to specialists affiliated with any Trustee or Investment Advisor, routing listed options through a proprietary trading operation affiliated with any trustee, or routing after-hours orders to

a proprietary trading operation in which any or Investment Advisor or an affiliate owns an equity interest. In such case the Trustee, Investment Advisor or its respective affiliate may receive both monetary and non-monetary “payment for order flow,” including, without limitation, an inter-company transfer of funds in connection with orders routed to an affiliated market maker; monetary compensation (including fee sharing) from, and participation in the profits of, certain affiliated and independent exchange specialists who execute orders; other compensation as part of reciprocal order routing arrangements with various exchange specialists and dealer firms; and rebates and credits against fees paid by various exchanges to member firms. Except as required by law, the Trustee’s compensation shall not be reduced by any additional compensation received by the trustee, its parent, or any affiliate thereof, or any agent, principal, advisor, counsel, broker, dealer, market maker or specialist (including exchange specialist) affiliated with the trustee, its parent or any affiliate thereof, for providing any of the services authorized herein. Except as required by law, the Investment Advisor’s compensation shall not be reduced by any additional compensation received by any affiliate thereof, or any agent, principal, advisor, counsel, broker, dealer, market maker or specialist (including exchange specialist) affiliated with the Investment Advisor or any affiliate thereof, for providing any of the services authorized herein.

8. ADMINISTRATIVE PROVISIONS

8.1 *Accountings*. Trustee shall render an accounting once each twelve (12) months to the Trust Protector. The account shall show the receipts, disbursements, and distributions of principal and income since the last accounting, and the assets on hand. If no objection shall be made to any account so rendered by the Trust Protector within ninety (90) days after a copy thereof has been delivered, the Trust Protector shall be conclusively presumed to have approved all actions reflected on the account so rendered. The approval of Trustee's accounts by the Trust Protector, shall be binding and conclusive upon all beneficiaries hereunder.

The Trustee shall not be required to render annual or other periodic accounts to any court. The Trustee shall take action for the approval of its accounts at such times and before such courts, or without court proceedings, as the Trustee, in its sole discretion, determines. The Trustee shall pay the costs and expenses of any such action, including but not limited to the compensation and expenses of attorneys and guardians, from principal or income, or both, of the trust as an Institutional Trustee, in its sole discretion, determines.

8.2 *Change of Trust Situs*. The Trust Protector shall have the power to remove all or part of the Trust Estate or to change the situs of administration of the Trust from one jurisdiction to another and to elect, by a separate acknowledged instrument filed with the trust records, that the law of such other jurisdiction shall govern the administration of the trust, provided that the Trust Protector shall not make any such election that would alter any beneficial interest under the trust.

8.3 *Filing or Registration of Trust*. The Trustee is hereby directed not to file this Trust instrument or any copy thereof in any Court, and not to register this Trust with any Court or governmental

agency, unless such filing or registration be requested by a beneficiary or be unconditionally required in order to avoid penalties imposed by law, or unless in the discretion of such Trustee the filing or registration shall be in the best interests of the beneficiaries hereunder.

8.4 *Administration of Separate Trust Estates.* If at any time after the death of Grantor Trustee is administering two or more separate Trust Estates hereunder and Trustee determines, in Trustee's discretion, that it would be good business practice to manage such separate Trust Estates in conjunction with one another, Trustee may allocate undivided interests in a common asset to each of such separate Trust Estates. If separate Trust Estates are managed in conjunction with one another, the properties and property interests contained in each separate Trust Estate, together with the income therefrom and the expenses attributable thereto, shall be separately accounted for by Trustee.

8.5 *Merger of Trusts.* If, after the death of Grantor, the Trustee is managing other trusts for any beneficiaries for whom trusts are being administered under the terms and provisions of this Agreement, then the Trustee is given the power to merge said trusts and manage them as a single trust for the same beneficiaries, if the provisions of such trusts before merger are substantially the same; or if the provisions of such trusts are not substantially the same, then the Trustee is given the power to administer such trusts together as nearly as is feasible.

8.6 *Deputy Trustees.* Trustee shall have the power to appoint one or more Deputy Trustees and to delegate thereto such power and authority as the Trustee shall elect, subject to the following terms and conditions:

- (A) The appointment shall be made by written instrument, signed by the Trustee. No other formalities are required.
- (B) A Deputy Trustee must exercise all delegated power and authority in a fiduciary capacity.
- (B) A Deputy Trustee shall have the legal status of an agent of this Trust with respect to acts and conduct of the Deputy Trustee that are within the scope of the power and authority delegated by the Trustee.
- (C) Unless appointed by Trustee with Trust Protector's consent, a Deputy Trustee must have the same qualifications as a successor Trustee appointed in event of vacancy in the office of Trustee, as provided elsewhere herein.
- (D) A Deputy Trustee shall account solely to the Trustee for the income and principal of any assets entrusted to it.
- (E) A Trustee may not delegate to a Deputy Trustee the responsibility or authority to determine whether discretionary distributions of principal or income shall be made to beneficiaries, or to determine the timing or amounts of any such discretionary distributions. Trustee's discretion relating to distributions to beneficiaries must be exercised solely by the Trustee.
- (F) Trustee may appoint a bank trust department or a trust company as a Deputy Trustee, and may

delegate to such Deputy Trustee the power and authority to invest and reinvest cash or other liquid assets of the Trust Estate delivered to it by Trustee. Such a Deputy Trustee is expressly authorized and empowered to invest such cash or other liquid assets in, and to commingle the same with, common trust funds maintained by it for the investment of trust funds held by such corporate Trustee. Any other investments must be approved by Trustee.

(G) If at any time the Trust Estate includes real estate, or an ownership interest in a proprietorship business or closely-held corporation, which the Trustee is unwilling or legally unable to accept or hold in trust solely by reason of the location of the real estate, or the difficulty or inconvenience to the Trustee of managing a particular parcel of real estate, or business, or investment in a closely-held corporation, Trustee shall not liquidate such asset except with the consent of a majority in interest of the then-current beneficiaries entitled to receive the income of the Trust Estate. If such consent cannot be obtained, Trustee shall appoint one or more Deputy Trustees to hold and manage such specific asset or assets, and account to the Trustee at reasonable intervals to be determined by the Trustee for the income and principal thereof. Trustee shall have no liability to any beneficiary hereunder with respect to the consequences of maintaining such asset or assets as a part of the Trust Estate, or any losses occasioned thereby. Nothing herein contained shall, however, be construed to require that Trustee obtain the consent of beneficiaries before liquidating an asset or investment if the Trustee has determined that holding such asset or investment involves an unreasonable risk of loss and would be imprudent and not in the best interests of the beneficiaries. By way of illustration and not limitation, if Trustee for legal or policy reasons determines that it cannot hold and manage real property located in another State, the management of such property shall be entrusted to a Deputy Trustee unless a majority in interest of the income beneficiaries consent to sale and liquidation of the property; but if Trustee determines that a particular investment involves a high degree of risk and constitutes an imprudent investment of trust funds, Trustee may liquidate the investment without the consent of beneficiaries unless such liquidation has been expressly prohibited elsewhere in this Trust Agreement.

(H) Each Deputy Trustee shall, from and after its appointment and without any assignment or other act by any person, have all the title, interest, rights and powers with respect to the particular property to be held and managed by it, which are by the provisions of this Agreement created to vest in the Trustee named herein.

(I) No Deputy Trustee shall have any liability to any beneficiary of this Trust with respect to any act or omission of the Trustee that appointed such Deputy Trustee.

Trustee may terminate the appointment and authority of a Deputy Trustee at any time and for any reason deemed sufficient by Trustee. Trustee shall give written notice of such termination to all parties known to Trustee to have been dealing with the terminated Deputy Trustee, and if management of any real estate was entrusted to the terminated Deputy Trustee, Trustee shall cause a notice of termination of the appointment of the Deputy Trustee to be recorded in the public records of each jurisdiction in which such real estate is located. Nothing herein contained shall be construed to limit or contravene the provisions of the "Powers of Trustee" attachment to this Trust Agreement, relating to Trustee's general power to appoint and remove Deputy Trustees with respect to cash accounts and reserves.

8.7 *Tax Elections*. Unless the manner in which any such election shall be made is expressly directed herein, the Individual Trustee may make any elections under the tax laws applicable to the estates of Grantor and to the Trust Estate that the Individual Trustee determines to be appropriate. No compensating adjustments between principal and income nor with respect to any trust shall be made even though the elections made under the tax laws by the Trustee may affect the interests of the beneficiaries in any manner whatsoever. The action of the Trustee shall be binding upon all beneficiaries.

8.8 *Payment of Insurance Premiums*. The Trustee shall be under no duty to pay, or see to the payment of, premiums on any policies of insurance that shall at any time comprise a part of the Trust Estate hereunder, unless sufficient unencumbered funds are available in the Trust Estate for payment of such premiums, which Trustee is permitted under the provisions of this Trust Agreement to use for the purpose of paying such premiums. Trustee is expressly authorized, however, to borrow against any policy of insurance for the purpose of paying premiums on such policy, or upon any other policy of insurance comprising a part of the Trust Estate.

8.9 *Collection of Life Insurance Proceeds*. Upon the death of a Grantor, the Trustee shall collect the net proceeds of any policy on the life of such Grantor held by or known to and payable to the Trustee or may exercise any optional method of settlement thereunder. Payment to and the receipt of the Trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this instrument or see to the application of any payment. If other assets of the Trust are insufficient to defray expenses, the Trustee need not engage in litigation to enforce payment of any policy without satisfactory indemnification for any resulting expense.

8.10 *Purchase of Assets at Request of Personal Representative*. Trustee shall at any time within a period of 15 months after the death of a Grantor purchase with trust funds, at the market value thereof at the time of purchase, any securities or other property that the Personal Representative of the estate of such Grantor requests that Trustee purchase, provided the property to be purchased is held in the probate estate of such Grantor or in the Trust Estate of a Trust established during the lifetime of such Grantor. In case of uncertainty as to the market value of any property, it shall be fixed by Trustee and the Personal Representative, if the property is held in the probate estate of a deceased Grantor or, in the case of property held in a Trust established during the lifetime of such Grantor, the Trustee of such Trust, and their determination as to such value shall be binding and conclusive upon all persons claiming under this Agreement. If they shall be unable to agree, such value shall be determined by an appraiser to be agreed upon and appointed by them and his determination shall be conclusive in like manner. The expenses of such appraisal shall be borne equally by this Trust and by the estate or Trust from which the property is to be purchased. Any such purchase transaction shall be consummated as soon as possible after request is made by the Personal Representative, and in no event more than thirty (30) days after such request is made to the Trustee.

8.11 *Copies of Trust Agreement for Beneficiaries*. After the death of Grantor, each beneficiary who is entitled to distribution of any part of the net income or principal of the Trust Estate shall be entitled to receive a copy of this Trust Agreement, and all amendments thereto. In the case of a

legal guardian shall be entitled to request and receive such copy. Each request for a copy of the Trust Agreement shall state the address to which the copy is to be mailed or delivered. Trustee's failure or refusal to provide a copy of the Trust Agreement to a party entitled to receive the same, within fifteen (15) days following Trustee's receipt of such party's written request that Trustee do so, shall constitute sufficient legal grounds for removal of the Trustee.

8.12 *Amendment of Administrative Provisions.* Notwithstanding the preceding provisions of this instrument, the Trust Protector shall have the power, by a separate acknowledged instrument filed with the trust records, to amend the administrative provisions of this trust instrument (including the provisions relating to the Institutional Trustee). The determination by the Trust Protector as to the provisions subject to amendment shall be conclusive upon all persons interested in the trust. The Trust Protector may exercise this power from time to time and may release this power in whole or in part, provided that neither the Trust Protector shall amend the trust in any manner that would alter any beneficial interest under the trust.

9. MISCELLANEOUS

9.1 *Legal Status of Beneficial Interests.* To the maximum extent permitted by law, no beneficiary shall have any right to anticipate, transfer, or encumber any part of any interest in the Trust Estate, nor shall any part of the beneficiary's interest be liable for his or her debts or obligations (including alimony) or be subject to attachment, process, and each beneficiary's interest in the Trust Estate shall constitute the separate property of the beneficiary and shall be free from any right, title, interest, or control of his or her spouse.

9.2 *Applicable Law.* This trust instrument shall be construed under, and the trusts created shall be governed by, the laws of the State of Wyoming. Any action or proceeding relating to this trust shall be brought and enforced in any state or federal court of competent jurisdiction in the State of Wyoming.

9.3 *Severability.* If any provision of this Agreement is legally held to be unenforceable, the remaining provisions shall nevertheless be carried into effect.

9.4 *Costs of Unsuccessful Contest.* In the event any beneficiary commences any legal action to contest the validity of this Trust Agreement, or the validity or enforceability of any of its provisions, and does not prevail in such legal action, the reasonable attorney's fees and costs of suit incurred by Trustee in successfully defending the contest shall be charged against, and offset from, any amounts distributable to such beneficiary from the Trust Estate of this Trust.

9.5 *Parties Bound by Agreement.* This Agreement shall inure to the benefit of, and shall be binding upon, the heirs, estates, personal representatives, successors and assigns of Grantor and the Trustee.

This irrevocable trust agreement has been executed by the Grantor on October 28, 2019.

SCHEDULE A

\$1,000.00 CASH



SCHEDULE B
POWERS OF TRUSTEE

1. *Life Insurance Policies.* To acquire as an asset of the Trust Estate one or more life insurance policies on the life of the Grantor, or on the life of any person who whom the income of the trust is then payable, or on the life of any person in whom such income beneficiary has an insurable interest, from such companies and in such amount as Trustee may deem advisable: to pay premiums on all policies of life insurance that comprise a part of the Trust Estate, from income or principal or both as Trustee may determine (subject to any express restrictions set forth in the Trust Agreement of which this document is made a part) and any such insurance shall be payable to: and all incidents of ownership shall be vested in Trustee.
2. *Insurance Proceeds; Options.* To permit the proceeds of any insurance policy payable to Trustee, or any part of such proceeds, to remain with the company under any option available under the terms of each policy, and Trustee shall not be liable for any loss resulting to the Trust Estate by reason of having permitted such retention.
3. *Retention of Existing Investment.* To retain and hold in or as a part of the Trust Estate any investment or other property acquired from Grantor or Grantor's estate, with full power, nevertheless, to change and vary the forms of any investment from time to time as the Trustee shall deem best.
4. *Operation of Business.* To continue and operate, any business owned by Grantor and to do all things deemed advisable in connection therewith, including the power to incorporate or otherwise change the form of the business and to contribute additional capital, as Trustee may deem best.
5. *Management and Operation of Real Estate.* To manage, operate, repair and improve, and to rent or lease, regardless of the length of the term, any real estate forming a part of the Trust Estate. Trustee shall have the power to do all things necessary or advisable in connection with the management and operation of any farm or ranch properties and any natural resource properties.
6. *Investments.* To open and maintain accounts with stock brokerage firms, to create and fund additional trusts or sub-trusts, and to execute all documents necessary for the establishment and maintenance thereof and, on behalf of the Trust, to invest the Trust Estate in, and to buy, sell, trade, and/or retain stocks, bonds, notes, options (including puts and calls and whether or not covered by like securities held in the brokerage account), and other securities of any nature (including short sales, and sales on margin), and for such purposes Trustee may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by Trustee to such brokers as security for loans and advancement made to the Trustee; and

To invest in, retain, or dispose of any securities managed, issued, underwritten or distributed by any Trustee or by any of its affiliates, and any participation in any investment company registered under the Investment Company Act of 1940 for which the Trustee or a Deputy Trustee (i.e. investment advisor) or any affiliate of either is an advisor or agent, notwithstanding the fact that such trustee or advisor or affiliate may receive separate fees, commissions or other costs directly from such security

or fund, and the Institutional Trustee shall have no duty to make further disclosure. No Institutional Trustee or Investment Advisor shall be liable for any failure to diversify trust assets.

To invest in, retain, or dispose of any other real or personal property including (but not limited to) precious metals or stones, commodities and commodity interests, interests in oil, gas, and mineral wells, mines, and leases, shares or interest in investment trusts and common trust funds, leaseholds or undivided fractional interests in real estate and interests in general or limited partnerships as Trustee may deem advisable, even though such investments may not be of the character generally deemed permissible for investments by fiduciaries. Investments need not be diversified and may be made or retained with a view to possible increase in value. Trustee may at any time hold cash or readily marketable securities of low yield for such period as Trustee may deem advisable.

7. *Exercise of Conversion Rights.* To exercise any rights and privileges to convert investments or other property into other investments or other property and to subscribe for additional securities, and to hold any assets so acquired as investments of the Trust Estate.

8. *Voting on Securities.* To vote in person or by proxy on any stocks or other securities held by Trustee.

9. *Registration of Securities or Property.* To cause to be registered in Trustee's name, individually or as Trustee, or in the name of a nominee, any securities or other property from time to time held by Trustee, or to take and keep them unregistered, and to retain them or any part thereof for such conditions that they will pass by delivery.

10. *Corporate Transactions.* To join in, or to dissent from and to oppose, the reorganization, recapitalization, consolidation sale or merger of corporations or properties in which Trustee may be interested as Trustee upon such terms and conditions as Trustee may deem wise, and to accept any securities that may be issued upon any such reorganization, recapitalization, consolidation sales or merger, and thereafter to hold the same.

11. *Purchase, Sale, and Disposition of Property.* To purchase, sell, exchange; convey or dispose of, or to acquire or grant options with respect to any property, real or personal, and any purchase or sale may be made by private contract or by public auction, and for cash or upon credit, or partly for cash and partly upon credit, as Trustee may deem best, and no person dealing with Trustee shall be bound to see to the application of any monies paid.

12. *Right to Borrow and Provide Security.* To borrow money from any financial institution or source of financing deemed appropriate by Trustee, for any purpose connected with the protection, preservation or improvement of the trustee estate whenever in Trustee's judgment advisable and as security therefor to mortgage or pledge any property forming a part of the Trust Estate upon such terms and conditions as Trustee may deem advisable.

13. *Right to Make Conveyances and Encumbrances.* To make, execute, acknowledge and

deliver any and all deeds, leases, and other legal instruments necessary or proper to carry out the provisions of the Agreement and to pledge mortgage and encumber any and all assets of the Trust Estate for any purpose, at any time, from time to time, on any terms and in any manner as the Trustee may in Trustee's sole discretion deem advisable and appropriate and to pledge or encumber assets of the Trust Estate to collateralize the loans and other obligations of any beneficiary hereunder other than a Grantor, and/or to act as guarantor on such loans and obligations of any such beneficiary hereunder other than a Grantor.

14. *Loans or Grantor's Estate.* To lend funds of the Trust Estate to Grantor's estate, upon such commercially reasonable terms and conditions as Trustee shall approve.

15. *Establishment of Reserves.* To establish, from rents, profits and other income, such reserve for taxes, assessments, insurance, repairs, improvements, depreciation and maintenance of buildings and other property, as Trustee shall deem advisable and consistent with the purpose of Grantor.

16. *Distribution in Cash or Property.* Except as otherwise expressly provided elsewhere herein, to make any division or distribution in cash or in kind, or partly in cash or partly in kind, on the basis of market values at the time of such division or distribution, or if there be no recognized market value at the fair value thereof. Any determination of recognized market value or fair value of any security or property made by Trustee for the purposes hereof shall be deemed presumptively correct.

(A) If the decedent by reason of whose death property is being transferred died prior to January 1, 2010, Trustee must, unless expressly directed otherwise in the Trust Agreement, distribute assets, including cash, fairly representative of appreciation or depreciation in all of the property available for distribution in satisfaction of such pecuniary gift or

(B) If the decedent by reason of whose death property is being transferred died after December 31, 2009, Trustee shall not transfer property in satisfaction of a pecuniary gift if the carryover capital gains tax basis in that property, determined in the manner directed by Internal Revenue Code Section 1022 (after any adjustment in basis of the property made by the decedent's estate, as provided for in I.R.C. Sections 1022 and 6018), is less than the fair market value of the property at the date of the decedent's death, unless the recipient of the property makes arrangements satisfactory to Trustee to reimburse the Trust Estate for the income taxes Trustee will be required to pay because of gain the Trust will be required to recognize by reason of the property transfer.

17. *Payment of Expenses.* To pay any and all expenses, costs, fees (including Trustee's own fees), taxes, penalties or other charges and except as otherwise expressly provided herein to charge the same against principal or income or partly against the principal and partly against the income of the whole or any part of any trust.

18. *Reliance on Furnished Information.* To rely upon any information, affidavit, certificates, letter, notice, telegram, or other document, or upon any telephone conversation believed by Trustee to be genuine and sufficient.

19. *Employment of Others.* To employ agents, attorneys, investment advisors, and other persons whose services may be required or advisable in the administration of the Trust Estate, including but not limited to entities affiliated with any Trustee or Deputy Trustee, and to pay out of income or principal or both the reasonable charges and fees of such agents, attorneys, and/or investment advisors, as it shall in its sole discretion determine; provided, however, that an Investment Advisor shall have the sole power to select brokers and dealers for the sale or purchase of any securities or other investment property in the trust. This may include, but shall not be limited to, routing orders for over-the-counter (OTC) stocks to a market maker affiliated with the Institutional Trustee, routing listed stocks to specialists affiliated with the Institutional Trustee, routing listed options through a proprietary trading operation affiliated with the Institutional Trustee, or routing after-hours orders to a proprietary trading operation in which the Institutional Trustee or an affiliate owns an equity interest. In such case the Institutional Trustee or an affiliate may receive both monetary and non-monetary “payment for order flow”, including, without limitation, an inter-company transfer of funds in connection with orders routed to an affiliated market maker; monetary compensation from, and participation in the profits of, certain affiliated and independent exchange specialists who execute orders; other compensation as part of reciprocal order routing arrangements with various exchange specialists and dealer firms; and to pay them reasonable compensation.

20. *Arbitration of Differences.* To submit to final arbitration any matter of difference with others.

21. *Settlement and Enforcement of Claims.* To compromise, compound and settle any obligation due to or from the Trust Estate (including Grantor’s estate where appropriate); to reduce the rate of interest on and to extend or otherwise modify or to foreclose upon default or otherwise enforce, any such obligation to enforce as to abstain from the enforcement or any right, obligation or claim; and to abandon, if in Trustee’s absolute discretion Trustee shall deem it advisable, any property, real or personal, which may at any time form a part of the Trust Estate and of the beneficiaries thereof, either before or after default.

22. *Depositories and Investment of Cash.* To create, maintain and invest in savings accounts, checking accounts, certificates of deposit, money market funds, and all other forms of cash reserves and deposits, including safety deposit boxes, whether or not interest bearing and to maintain said cash accounts and reserves with any institution or depository deemed appropriate by the Trustee. If the office of Trustee is held by Co-Trustees and all Co-Trustees shall so instruct the depository checks and withdrawals may be signed and made by any one Co-Trustee without the co-signature of any other Co-Trustee. Such accounts and deposits shall be titled in the name or names designated by the Trustee. Trustee may appoint a Deputy Trustee or Deputy Trustees pursuant to the authority granted in Paragraph 23 below, to function as would the Trustee in connection with any cash accounts or reserves including the authority to make deposits to and withdrawals from such cash accounts and reserves.

23. *Deputy Trustees.* Trustee shall have the power to appoint one or more Deputy Trustees to assist Trustee in the administration of this Trust, and to perform any act of administration of this Trust on behalf of Trustee. Trustee may delegate to a Deputy Trustee such power and authority as the Trustee shall elect, subject to the following terms and conditions:

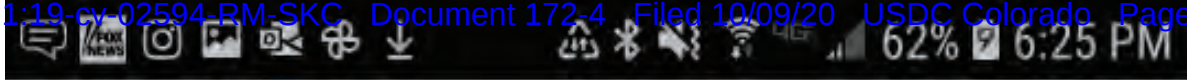
- (A) The appointment shall be made by written instrument signed by the Trustee. No other formalities are required.
- (B) A Deputy Trustee must exercise all delegated power and authority in a fiduciary capacity.
- (C) A Deputy Trustee shall have the legal status of an agent of this Trust with respect to acts to acts and conduct of the Deputy Trustee that are within the scope of the power and authority delegated by the Trustee.
- (D) Unless appointed by a Trustee who is also a Grantor, a Deputy Trustee must have the same qualifications as a successor Trustee appointed in event of vacancy in the office of Trustee, as provided elsewhere herein.
- (E) Trustee may not delegate to a Deputy Trustee the responsibility or authority to determine whether discretionary distributions of principal or income shall be made to beneficiaries, or to determine the timing or amount of any such discretionary distributions. Trustee's discretion relating to distributions to beneficiaries must be exercised solely by the Trustee.
- (F) A Deputy Trustee shall account solely to the Trustee for the income and principal of any assets entrusted to it.
- (G) Trustee may appoint a bank trust department or a trust company as a Deputy Trustee, and may delegate to such Deputy Trustee the power and authority to invest and reinvest cash or other liquid assets of the Trust Estate delivered to it by Trustee. Such a Deputy Trustee is expressly authorized and empowered to invest such cash or other liquid assets in, and to commingle the same with common trust funds maintained by it for the investment of trust funds held by such corporate Trustee. Any other investments must be approved by Trustee.
- (H) If at any time the Trust Estate includes real estate, or any ownership interest in a proprietorship business or closely-held corporation, that the Trustee is unwilling or legally unable to accept or hold in trust solely by reason of the location of the real estate, or the difficulty or inconvenience to the Trustee of managing a particular parcel of real estate or business or investment in a closely-held corporation, Trustee shall not liquidate such asset except with the consent of a majority in interest of the then current beneficiaries entitled to receive the income of the Trust Estate. If such consent cannot be obtained, Trustee shall appoint one or more Deputy Trustees to hold and manage such specific asset or assets, and account to the Trustee for the income and principal thereof at reasonable intervals determined by the Trustee. A Deputy Trustee appointed under the provisions of this subparagraph shall from and after its appointment and without any assignment or other act by any person, have all the title, interest, rights and powers with respect to the particular asset or assets entrusted to it that are by the provisions of this Agreement vested in the Trustee. Trustee shall have no liability to any beneficiary hereunder with respect to the consequences of maintaining such asset or assets as a part of the Trust Estate, or any losses occasioned thereby. Nothing herein contained shall, however, be construed to require that Trustee obtain the consent of beneficiaries before liquidating an asset or investment if the Trustee has determined that holding such asset or investment involves an unreasonable risk of loss and would be impendent and not in the best interests of the beneficiaries. By way of illustration and




no limitation, if Trustee for legal or policy reasons determines that it cannot hold and manage real property located in another State, the management of such property shall be entrusted to a Deputy Trustee unless a majority in interest of the income beneficiaries consent to sale and liquidation of the property; but if Trustee determines that a particular investment involves a high degree of risk and constitutes an imprudent investment of trust funds. Trustee may liquidate the investment without the consent of beneficiaries unless such liquidation has been expressly prohibited elsewhere in this Trust Agreement.

(I) No Deputy Trustee shall have any liability to any beneficiary of this Trust with respect to any act or omission of the Trustee that appointed such Deputy Trustee.

All Deputy Trustees shall serve at the pleasure of the Trustee and Trustee may terminate the appointment and authority of a Deputy Trustee at any time and for any reason deemed sufficient by Trustee. Trustee shall give written notice of such termination to all parties known to Trustee to have been dealing with the terminated Deputy Trustee and if management of any real estate was entrusted to the terminated Deputy Trustee, Trustee shall cause a notice of termination of the appointment of the Deputy Trustee to be recorded in the public records of each jurisdiction in which such real estate is located. Nothing contained in this Paragraph 23 shall be construed to limit or contravene the express provisions of Paragraphs 4 and 22 above as the same relate to Deputy Trustee.

24. *Estimates of Value of Trust Estate Assets.* Whenever Trustee is required to determine the value of the Trust Estate, or any portion thereof, for the purpose of dividing the same into shares for any purposes or for the purpose of determining the amount of cash or property to be distributed to a beneficiary who is entitled to receive a certain fractional portion of the Trust Estate. Trustee may estimate the value of Trust Estate assets based upon such information as shall be available to, and deemed reliable by, the Trustee, unless the Trust Agreement expressly requires the valuation for federal estate tax purposes be utilized by Trustee. Unless Trustee deems such to be advisable, it shall not be necessary for Trustee to obtain independent appraisals of value. Trustee's estimate of value, so long as made in good faith, shall be conclusive and shall be binding upon all beneficiaries hereunder.



←  Mike Stewart
Mobile - MUTED  

10/27/19 3:25 PM

Hey




Are you in town tomorrow?

I need a favor.

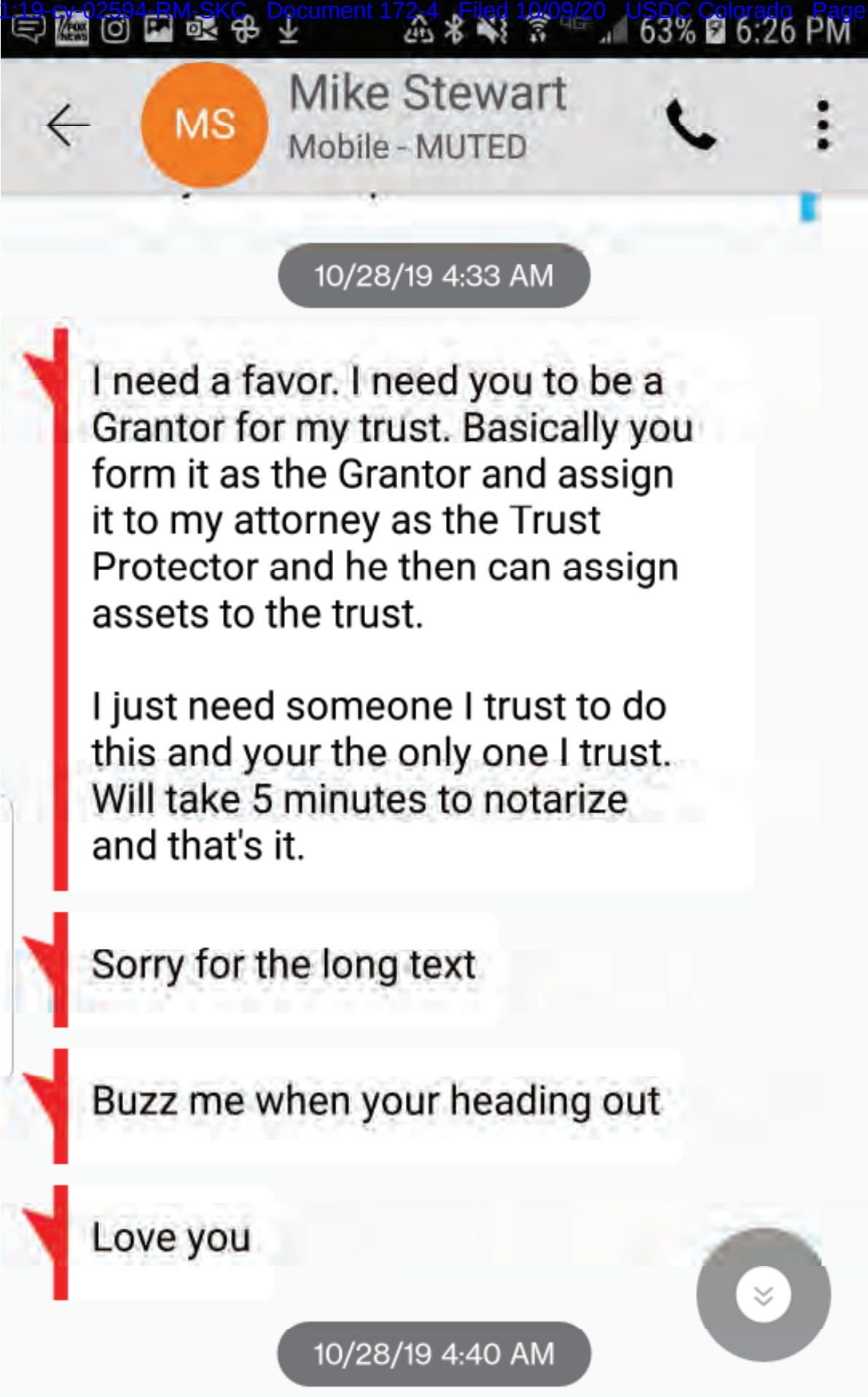
10/27/19 6:16 PM

Call me when your getting about in the am please

10/27/19 8:58 PM

Just got your text. Was at  soccer game. I have dental appointments for  and  at 7:30am tomorrow, then get them to school before heading into my day. What's up?



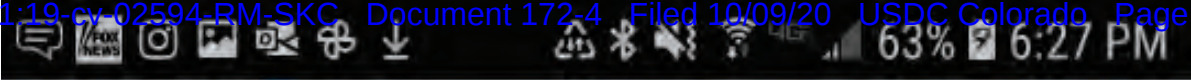
I need a favor. I need you to be a Grantor for my trust. Basically you form it as the Grantor and assign it to my attorney as the Trust Protector and he then can assign assets to the trust.




I just need someone I trust to do this and your the only one I trust. Will take 5 minutes to notarize and that's it.

Sorry for the long text

Buzz me when your heading out

Love you



←  Mike Stewart
Mobile - MUTED  

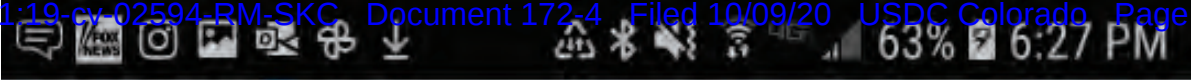
10/28/19 4:40 AM




My attorney wrote this to explain it to you:

Generally, the grantor of an irrevocable trust is merely the person “sponsoring” or “establishing” the trust and retains few, if any, powers thereafter. In the instant situation, the grantor (i.e. YOU) is retaining NO continuing powers to amend, modify, or otherwise change any provisions of the A.L.A. Trust. The Trust Protector (i.e. ME) reserves the right to change trustees and retains the power to designate each year from the classes of beneficiaries (i.e. your siblings and/or their children) the persons who will receive distributions, if any, declared by the trustee.

Without any retained or reserved



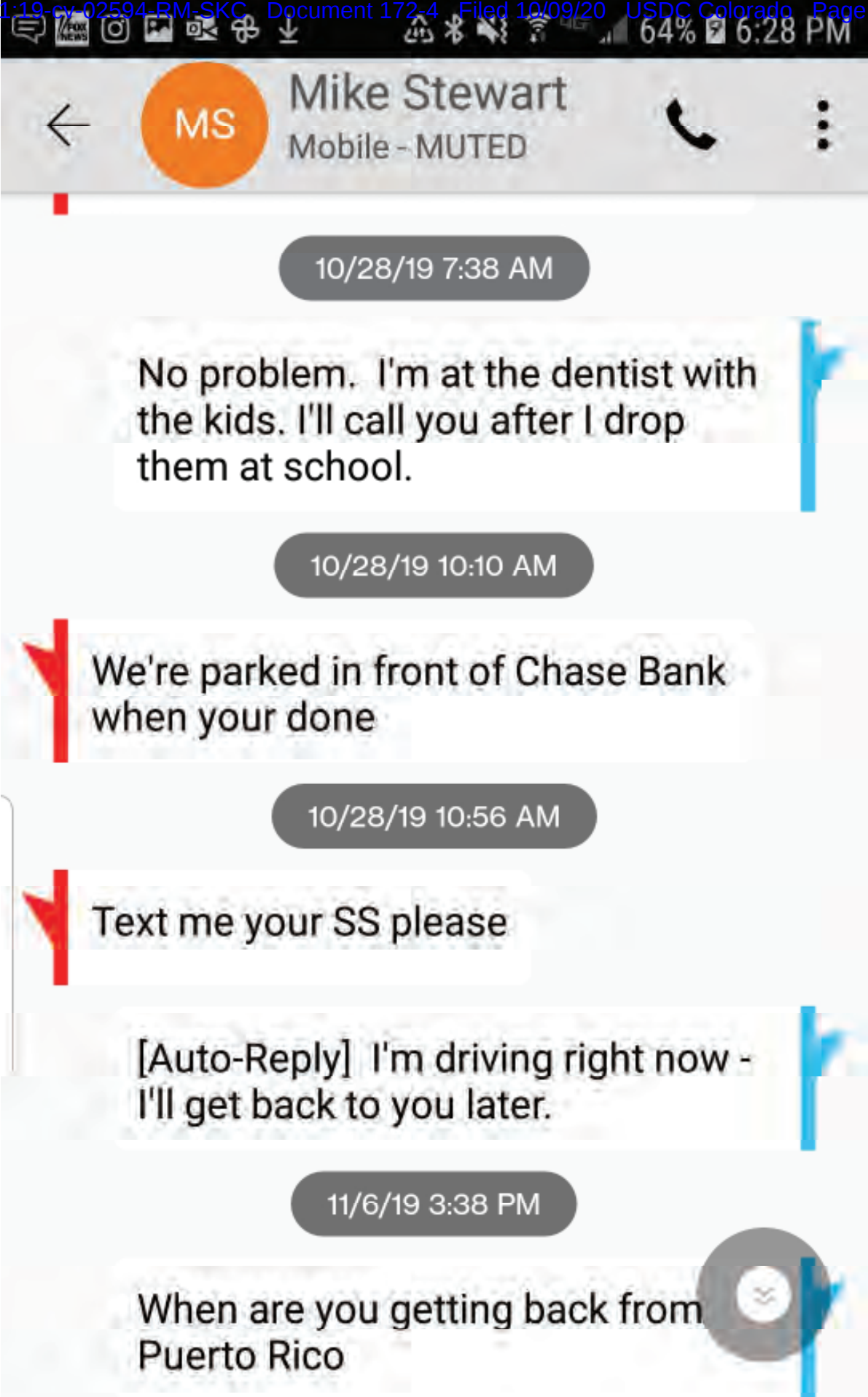
←  Mike Stewart
Mobile - MUTED  

declared by the trustee.

Without any retained or reserved powers to the grantor (i.e. YOU), the trust assets will NOT be included in your estate for taxation or probate purposes nor will they be available to satisfy claims of your creditors. Likewise, you will not be responsible for any claims of creditors of the trust or its beneficiaries. Thus, the grantor (i.e. YOU) is merely performing a ministerial function of creating the trust for the benefit of others. While you, as grantor, may make contributions to the trust assets, that is not contemplated nor expected. Without any further or broader powers or duties, your involvement will cease on the day and date of execution. After the initial account establishment at Wells Fargo Advisors in the name of the trust, there should be no further action necessary in which





Page 1

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF COLORADO
 3
 4 UNITED STATES SECURITIES AND)
 EXCHANGE COMMISSION,)
 5)
 Plaintiff,)
 6)
 vs.) Case No.
 7) 19-cv-2594-RM
 MEDIATRIX CAPITAL, INC.,)
 8 et al.,)
)
 9 Defendants.)
 _____)
 10
 11
 12
 13
 14 DEPOSITION OF SHAWN STEWART
 15 VIA VIDEOCONFERENCE
 16 Tuesday, September 15, 2020
 17
 18
 19
 20
 21
 22
 23 REPORTED BY:
 24 GRACE CHUNG,
 CSR No. 6246, RMR, CRR, CLR
 25 JOB No. 200915GCH

Page 2

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF COLORADO
 3
 4 UNITED STATES SECURITIES AND)
 EXCHANGE COMMISSION,)
 5)
 Plaintiff,)
 6)
 vs.) Case No.
 7) 19-cv-2594-RM
 MEDIATRIX CAPITAL, INC.,)
 8 et al.,)
)
 9 Defendants.)
 _____)
 10
 11
 12
 13 Deposition of SHAWN STEWART
 14 taken via videoconference on behalf of Plaintiff,
 15 beginning at 9:49 a.m. and ending at 12:31 p.m.,
 16 on Tuesday, September 15, 2020, before GRACE
 17 CHUNG, CSR No. 6246, RMR, CRR, CLR.
 18
 19
 20
 21
 22
 23
 24
 25

Page 3

1 APPEARANCES
 2 For the Plaintiff:
 3 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
 BY: STEPHEN C. McKENNA, ESQ.
 4 MARK L. WILLIAMS, ESQ.
 1961 Stout Street
 5 17th Floor
 Denver, Colorado 80294
 6 (303) 844-1000
 mckennas@sec.gov
 7 williamsml@sec.gov
 (Via Videoconference)
 8
 9 For the Defendant Shawn Stewart:
 10 BINGHAM LAW
 BY: ANTHONY BINGHAM, ESQ.
 11 1423 South Higley Road
 Suite 110
 12 Mesa, Arizona 85206
 (480) 832-1922
 13 tony@binghamlawaz.com
 (Via Videoconference)
 14
 15 For Defendant Michael Young:
 16 MICHAEL YOUNG, Pro Se
 5406 South Cottonwood Court
 17 Greenwood Village, Colorado 80121
 (720) 530-8434
 18 (Via Videoconference)
 19
 For Defendants Michael Stewart and Bryant Sewall:
 20
 DROHAN LEE LLP
 21 BY: VIVIAN RIVERA DROHAN, ESQ.
 680 Fifth Avenue
 22 New York, New York 10019
 (212) 710-0004
 23 vdrohan@dlkny.com
 (Via Videoconference)
 24
 25

Page 4

INDEX		
WITNESS	EXAMINATION	PAGE
SHAWN STEWART		
BY MR. WILLIAMS		5
EXHIBITS		
NO.	DESCRIPTION	PAGE
8	Exhibit 1 Subpoena	9
9	Exhibit 2 Complaint	13
10	Exhibit 3 Temporary Restraining Order	17
11	Exhibit 4 Stipulation and Order Granting An Asset Freeze, Preliminary Injunction, and Other Relief	18
13	Exhibit 5 Bank Statement	23
14	Exhibit 6 Text Messages	34
15	Exhibit 7 A.L.A. Trust Agreement	62
16	Exhibit 8 Notice of Violation of Asset Freeze	69
17	Exhibit 9 Email chain regarding wire instructions	77
18	Exhibit 10 Email chain regarding wire instructions	79
19	Exhibit 11 Accounting of Michael Stewart and Victoria M. Stewart	80
20		
21		
22		
23		
24		
25		

Page 5

1 Tuesday, September 15, 2020
 2 9:49 a.m.
 3 THE REPORTER: Before we proceed, I will
 4 ask counsel to agree on the record that there is no
 5 objection to this deposition officer administering
 6 a binding oath to the witness by videoconference.
 7 Please state your agreement on the record.
 8 MR. WILLIAMS: Yes, Mark Williams, on
 9 behalf of the SEC, agrees to this deposition taking
 10 place by videoconference.
 11 MR. BINGHAM: Mr. Bingham, I represent
 12 Shawn Stewart. I have no objection to this
 13 deposition being taken by video and telephonic
 14 conference.
 15 MS. DROHAN: I have no objection.
 16 MR. YOUNG: That's fine.
 17 SHAWN STEWART,
 18 having been first duly sworn or affirmed, was
 19 examined and testified as follows:
 20
 21 EXAMINATION
 22 BY MR. WILLIAMS:
 23 Q. Thank you. Mr. Stewart, my name is Mark
 24 Williams. I represent the Securities Commission.
 25 Can you hear me okay?

Page 6

1 A. Yes.
 2 Q. Okay. Let me start with some ground
 3 rules, and I will start with a question. That is:
 4 Have you ever had your deposition taken before?
 5 A. No.
 6 Q. Have you ever provided any sort of sworn
 7 testimony before?
 8 A. No.
 9 Q. Okay. You do understand that you are
 10 under oath and that you are to tell the truth and
 11 honestly answer the questions that I ask you here
 12 today. Okay?
 13 A. Yes.
 14 Q. Because this is being transcribed, do your
 15 best to let me finish my questions before
 16 answering, and I will do my best to let you finish
 17 answering questions before I ask the next one.
 18 That is because the court reporter is not going to
 19 be able to take down what we are both saying if we
 20 are speaking at the same time. Any issue with
 21 that?
 22 A. No.
 23 Q. Okay. And you do have an attorney here
 24 today; correct?
 25 A. Yes, I do.

Page 7

1 Q. Okay. Is there any reason you can't give
 2 your best and most accurate testimony here today?
 3 A. No.
 4 Q. Let me start with some general background
 5 questions. Could you please state your name and
 6 tell me what city and state you live in.
 7 A. Shawn Stewart. I live in Anthem,
 8 Arizona -- New River, Arizona.
 9 Q. And are you currently employed?
 10 A. Yes.
 11 Q. And what do you do?
 12 A. I am a construction chemical sales
 13 representative.
 14 Q. And how long have you worked at the job
 15 you are currently at?
 16 A. Just over four and a half years.
 17 Q. What did you do prior to your current job?
 18 A. I was -- I worked for a company that
 19 handled floor coatings, which is how I got into my
 20 current position. More of an installer and bidding
 21 background versus distributor of product.
 22 Q. Okay. Are you married, and do you have
 23 any children? No need to give me their names. But
 24 just asking if you are married and if you have
 25 children.

Page 8

1 A. Yes to both.
 2 Q. And how many children do you have?
 3 A. Six.
 4 Q. Do you have any brothers or sisters?
 5 A. Yes. Two brothers and one sister.
 6 Q. And who are your brothers -- and what are
 7 the names of your two brothers and one sister?
 8 A. Michael Stewart, Kelly Stewart, and
 9 Shannon Stewart. Staples now, the married name.
 10 Q. And where do your two brothers and sister
 11 live?
 12 A. Mike, he lives in Arizona; Kelly in
 13 Arizona; and Shannon in New River.
 14 Q. Let me now turn to showing you some
 15 documents. I'm going to be using a share screen.
 16 I'm going to ask you in a moment if you can see the
 17 documents I'm showing you via this videoconference.
 18 (Miscellaneous comments.)
 19 MR. BINGHAM: Mark, if he's not able to
 20 see what you are showing on the screen, he does
 21 have the exhibits that I sent him via email that he
 22 can retrieve.
 23 MR. WILLIAMS: Okay.
 24 Q. Let's start with -- Mr. Stewart, can you
 25 see the Deposition Exhibit 1 that I have put on the

Page 9

1 screen?
 2 A. No. I have no idea at all. It looks like
 3 it's pulling up. It's trying to connect me.
 4 (Deposition Exhibit 1 was marked for
 5 identification by the reporter and is
 6 attached hereto.)
 7 A. No, nothing.
 8 BY MR. WILLIAMS:
 9 Q. Mr. Stewart, do you have a video feed?
 10 A. No, it's just showing me boxes with
 11 everybody's initials.
 12 Q. Let's go off the record, and we will try
 13 to sort this out.
 14 A. Okay.
 15 (Recess taken from 10:11 a.m. to
 16 10:23 a.m.)
 17 BY MR. WILLIAMS:
 18 Q. Mr. Stewart, it looks like we have
 19 overcome some technical difficulties. We are now
 20 back on the record, and let me proceed with my
 21 questioning.
 22 A. Okay.
 23 Q. I'm going to show you what's been marked
 24 as Deposition Exhibit 1. Do you see that?
 25 A. Yes.

Page 10

1 Q. Okay. And do you recognize Deposition
 2 Exhibit 1?
 3 A. Yes.
 4 Q. And how do you recognize it?
 5 A. It was sent to me.
 6 Q. Okay. Is this a subpoena that was sent to
 7 you by the SEC that has resulted in your deposition
 8 here today?
 9 A. Yes.
 10 MR. BINGHAM: Mark, I will note this has a
 11 date of September 11th. That was the prior
 12 subpoena.
 13 MR. WILLIAMS: I think you are right.
 14 That's right. This was subsequently extended to
 15 today, September 15. Thank you for that.
 16 Q. Ultimately, what I will ask, though, is
 17 turn to page 4 of the Deposition Exhibit 1, is an
 18 Attachment A. This Attachment A was appended to
 19 each of the exhibits -- I'm sorry -- each of the
 20 subpoenas that were sent to you, including the one
 21 that specifically stated September 15, 2020. Do
 22 you recognize Attachment A?
 23 A. Yes.
 24 Q. And did Attachment A request that you
 25 produce the documents reflected here concerning

Page 11

1 certain properties, a trust, as well as an LLC?
 2 A. Yes.
 3 Q. And have you provided all records that
 4 were called for by this subpoena?
 5 A. Yes.
 6 Q. Do you anticipate providing any more
 7 records to the SEC, records that -- strike that.
 8 Let me ask you in a different way.
 9 Do you anticipate providing any records to
 10 the SEC that's called for by the subpoena?
 11 A. No.
 12 Q. I'm going to ask you to briefly walk
 13 through some of the properties and entities on this
 14 list, Mr. Stewart. Are you familiar with a
 15 property located at 7349 East Casitas Del Rio Drive
 16 in Scottsdale, Arizona?
 17 A. No.
 18 Q. Are you familiar with a property located
 19 at 8221 East Sheridan Street in Scottsdale,
 20 Arizona?
 21 A. No.
 22 Q. Are you familiar with an entity known as
 23 the Keystone Business Trust?
 24 A. No.
 25 Q. Do you recognize the names Michael S.

Page 12

1 Stewart and Victoria M. Stewart?
 2 A. Yes.
 3 Q. And how do you recognize those names?
 4 A. That is my brother and his wife.
 5 Q. Moving to the next paragraph, are you
 6 familiar with the Wind River Jiroch, LLC?
 7 A. No.
 8 Q. Moving to the last paragraph, are you
 9 familiar with the A.L.A. Trust?
 10 A. Yes.
 11 Q. How are you familiar with the A.L.A.
 12 Trust?
 13 A. I believe that is the trust that he had
 14 me -- requested me to be a grantor for.
 15 Q. When you say "he requested," who is the
 16 "he"?
 17 A. Michael.
 18 Q. Is that your brother Michael Stewart?
 19 A. Yes.
 20 Q. We will come back to that. Let me ask you
 21 about one more property. Are you familiar with the
 22 property located at 3821 North 85th Street in
 23 Scottsdale, Arizona?
 24 A. No.
 25 Q. I'm going to now place on the screen

Page 25

1 him it wasn't a big deal. Just go ahead. So
 2 that's what the deposit was for.
 3 Q. Well, why did Michael Stewart not send
 4 this money to his attorneys himself? Why did he
 5 have you send this to his attorneys?
 6 A. I don't recall exactly what the reason
 7 was. I thought he might have been in Puerto Rico,
 8 but there was a reason that he couldn't get to it
 9 and he needed it to be sent over and just asked me
 10 to help.
 11 Q. Okay. And why did you understand that
 12 Michael Stewart needed to pay his attorney \$147,000
 13 approximately?
 14 A. I didn't know. I didn't ask.
 15 Q. What account did you understand this money
 16 came from, if you know now or knew then?
 17 A. I didn't know.
 18 Q. Okay. Looking at the top line directly to
 19 the left of the number 147,100, do you see where it
 20 states "Wind River Jiroch, LLC"?
 21 A. Yes.
 22 Q. Were you familiar with this entity at this
 23 time, when this transfer occurred?
 24 A. No.
 25 Q. Did Michael Stewart ever mention to you

Page 26

1 that the money would be coming from this entity?
 2 A. No.
 3 Q. Did Michael Stewart tell you where he
 4 obtained the \$147,000, approximately, cash to
 5 deposit into your account?
 6 A. No.
 7 Q. Did Michael Stewart tell you anything else
 8 about this deposit other than he was placing this
 9 money into your account so you could pay his
 10 attorney on his behalf?
 11 A. No.
 12 Q. Just to be clear, I don't want to put
 13 words in your mouth, but that is your testimony --
 14 correct? -- that Michael Stewart told you that he
 15 was placing \$147,100 into your account so you could
 16 send this money to his attorneys on his behalf. Is
 17 that correct?
 18 A. Correct.
 19 Q. When were you first told that you would be
 20 receiving the approximately \$147,000 into your
 21 account?
 22 A. I don't recall the exact date. It wasn't
 23 but a day or two prior. I believe I supplied the
 24 text messages for those.
 25 Q. Okay. We will go through those. And that

Page 27

1 was going to be my question, is: Did you have any
 2 communications about this \$147,000, approximately,
 3 aside from the written communications you provided
 4 to the SEC in response to the subpoena?
 5 A. No.
 6 Q. Prior to October 9th, had your brother
 7 Michael Stewart ever transferred money to you
 8 before?
 9 A. No.
 10 Q. Prior to October 9th, 2019, had Michael
 11 Stewart ever given you money to pay somebody else
 12 on his behalf?
 13 A. No.
 14 Q. Then would you agree that this was Michael
 15 Stewart asking you to -- I'm sorry, strike that.
 16 Let me start over.
 17 Would you agree it was unusual for Michael
 18 Stewart to ask to deposit money into your account and
 19 have you relay that money to somebody else on his
 20 behalf?
 21 A. I don't -- I don't know how I would
 22 respond, whether it's usual or not or unusual. It
 23 was a favor. I didn't give any thought to that.
 24 Q. Okay. Well the fact remains that this was
 25 the first time that he had asked you to do

Page 28

1 something like this. Is that right?
 2 A. Yes.
 3 Q. And why did you agree to do this?
 4 A. He said he was in a pinch and needed me to
 5 help him, and so I agreed to help him.
 6 Q. Did he tell you what the pinch was?
 7 A. No.
 8 Q. Did you ask what the pinch was?
 9 A. No. He just said he couldn't get to it,
 10 and I was available.
 11 Q. Were you aware that Michael Stewart had
 12 access to \$147,000 cash prior to this deposit?
 13 A. No.
 14 Q. Did you ask Michael Stewart how he was
 15 able to access so much cash?
 16 A. No, I did not.
 17 Q. Why not?
 18 A. I -- it wasn't my business. I had no idea
 19 about that.
 20 Q. Has Michael Stewart or Victoria Stewart
 21 asked you to hold any other money or assets since
 22 this October 9th, 2019, transfer of approximately
 23 \$147,000?
 24 A. No.
 25 Q. Are you familiar with an individual -- I'm

Page 29

1 sorry, strike that.
 2 Are you familiar with Aaron Stewart, the
 3 son of Michael and Victoria Stewart?
 4 A. Yes.
 5 Q. Do you talk with him or see him on any
 6 sort of regular basis?
 7 A. No.
 8 Q. When is the last time you spoke with or
 9 saw Mr. Aaron Stewart?
 10 A. I believe it was at his wedding.
 11 Q. Approximately how long ago was that?
 12 A. Two years.
 13 Q. So the answer is probably obvious. Has
 14 Aaron Stewart asked you to hold any money or
 15 transfer any money on his behalf?
 16 A. No.
 17 Q. I would like to turn to page 4 of
 18 Exhibit 5. Do you see the -- do you see page 4 of
 19 Exhibit 5?
 20 A. Yes.
 21 Q. And do you see the box that says
 22 "Electronic Withdrawals"?
 23 A. Yes.
 24 MR. BINGHAM: Can you expand that a little
 25 bit? Thanks. My eyes aren't really good, so....

Page 30

1 BY MR. WILLIAMS:
 2 Q. So I'm going to be asking you about two
 3 particular withdrawals on October 9th. So I'm
 4 going to focus in on that part, which I think
 5 should help everybody see this record.
 6 Mr. Stewart, do you see the two withdrawals on
 7 October 9th in the amount of \$76,000 and \$71,000?
 8 A. Yes.
 9 Q. Starting with the first one on October 9th
 10 of \$76,000, did you send -- I'm sorry. Were you
 11 involved in this withdrawal?
 12 A. Yes.
 13 Q. And what was your involvement?
 14 A. This -- this is one of two of the wire
 15 transfers that were to be sent to his attorney.
 16 Q. And prior to Mr. Stewart asking you to
 17 send this money, were you familiar with the names
 18 Drohan -- I'm sorry, the entity Drohan Lee, LLP?
 19 A. No.
 20 Q. Do you see the entity Drohan Lee, LLP,
 21 there just next to the \$76,000?
 22 A. Yes.
 23 Q. What do you understand Drohan Lee, LLP, to
 24 be?
 25 A. I don't. I thought it was an attorney.

Page 31

1 Q. What were you told was the purpose of the
 2 transfer to Drohan Lee in the amount of \$76,000?
 3 A. Legal fees.
 4 Q. Did Michael Stewart tell you why he was
 5 not paying Drohan Lee directly?
 6 A. No.
 7 Q. Had Drohan Lee performed any services for
 8 you or on your behalf?
 9 MR. BINGHAM: I don't know if he heard
 10 your question.
 11 MR. WILLIAMS: I can re-ask it.
 12 Q. Mr. Stewart, can you hear me?
 13 A. Yes, I can hear you.
 14 Q. Just to be clear -- let me start over.
 15 To your knowledge, has Drohan Lee, LLP,
 16 performed any services or work on your behalf?
 17 A. No.
 18 Q. Did you understand that this money was
 19 going to Drohan Lee entirely for work performed on
 20 behalf of Michael Stewart?
 21 A. Yes. That's why he asked me to send it.
 22 Q. Has anybody from Drohan Lee reached out to
 23 ask you about this money, about the transfer of
 24 \$76,000 on October 9th, 2019?
 25 A. No.

Page 32

1 Q. Did you ever tell anyone at Drohan Lee
 2 that this was your money that you were sending to
 3 it on October 9th, 2019?
 4 A. No. I have never spoken to anyone from
 5 there.
 6 Q. Have you ever told anybody at all that
 7 this was your money that you sent to Drohan Lee on
 8 October 9th, 2019?
 9 A. No.
 10 Q. Going to the next line down, do you see
 11 the \$71,000 withdrawal?
 12 A. Yes.
 13 Q. Were you involved in this withdrawal?
 14 A. Yes.
 15 Q. And how were you involved?
 16 A. That is the second portion of the -- the
 17 second wire transfer to be sent.
 18 Q. And do you see the names Kaplan Hecker &
 19 Fink, LLP, next to the \$71,000 withdrawal?
 20 A. Yes.
 21 Q. And what do you understand Kaplan Hecker &
 22 Fink, LLP, to be?
 23 A. I thought they were attorneys.
 24 Q. And who did you understand those attorneys
 25 were representing?

Page 45

1 71,000 to the law firms of Drohan Lee and Kaplan
 2 Hecker?
 3 A. Yes.
 4 Q. Do you see the message on page 9 that
 5 states, "Send me a copy of reroutes when done,
 6 please"?
 7 A. Yes.
 8 Q. What did you understand this to mean?
 9 A. I didn't.
 10 Q. Meaning you didn't understand what Michael
 11 Stewart was saying then and you do not understand
 12 what he's saying now?
 13 A. Correct.
 14 Q. Did the bank ask you why you were sending
 15 these transfers to either of the law firms?
 16 A. No.
 17 Q. Did Michael Stewart provide you with any
 18 instructions to tell the bank if they inquired
 19 about why they were sending these amounts of money
 20 to the law firms?
 21 A. No.
 22 Q. Had the bank asked you why you were
 23 sending these amounts of money, what would you have
 24 said?
 25 A. They were legal fees for my attorney.

Page 46

1 Q. Would you have told the bank that this was
 2 your money or Michael Stewart's money?
 3 A. Michael Stewart's money.
 4 Q. Turning to page 11 of Exhibit 6, do you
 5 see the message, "I do need the tag form signed AD
 6 notarized for elk hunt"? What did you understand
 7 this to mean?
 8 A. That was for an elk hunt that we were
 9 going to be going on in Idaho.
 10 Q. And approximately how much -- well, how
 11 much is an elk tag in Idaho?
 12 A. I don't know. It was -- he set that trip
 13 up. I have no idea what that was.
 14 Q. Did you go hunting for elk in Idaho?
 15 A. No, we did not end up going.
 16 Q. Why not?
 17 A. I don't recall.
 18 Q. And who canceled the trip?
 19 A. I believe Michael canceled it.
 20 Q. And did he tell you or did you get any
 21 indication why the trip was canceled?
 22 A. Yes, he told me. I just don't recall what
 23 or why.
 24 Q. Okay. And just to be clear, I'm going to
 25 scroll up so you can see. Was this --

Page 47

1 (Reporter interrupts for clarification of
 2 the record.)
 3 BY MR. WILLIAMS:
 4 Q. Mr. Stewart, do you see that the text
 5 message referencing the elk hunt was sent on
 6 October 9th, 2019?
 7 A. Yes.
 8 Q. And who did you understand would be paying
 9 for the elk hunt?
 10 A. Mike.
 11 Q. Where did you understand that Mike Stewart
 12 would get the money to pay for this elk hunt?
 13 A. I do not know.
 14 Q. Who else was going to go on the elk hunt
 15 with you and Michael Stewart?
 16 A. I don't recall.
 17 Q. Was there going to be anybody else, or was
 18 it just going to be the two of you?
 19 A. I remember the two of us. I don't
 20 remember much else other than that.
 21 Q. Had you previously done an elk hunt in
 22 Idaho before?
 23 A. No, never been hunting before.
 24 Q. When did you and Mike Stewart decide that
 25 you would go elk hunting?

Page 48

1 A. I don't recall.
 2 Q. Turning to page 12 of this Exhibit 6 --
 3 I'm sorry, page 13 of Exhibit 6. Do you see that,
 4 Mr. Stewart?
 5 A. Yes.
 6 Q. I'm going to read a text message, and just
 7 let me know if I read it accurately. This is a
 8 text message from Michael Stewart.
 9 "I need a favor. I need you to be a
 10 grantor for my trust. Basically, you form it as
 11 the grantor and assign it to my attorney as the
 12 trust protector, and he then can assign assets to
 13 the trust. I just need someone I trust to do this,
 14 and you're the only one I trust. Will take five
 15 minutes to notarize and that's it."
 16 Do you see that message?
 17 A. Yes.
 18 Q. Prior to this text message -- when was
 19 this text message sent?
 20 A. It says 10-28.
 21 Q. At what time?
 22 A. 4:33 a.m.
 23 Q. Was it typical that Michael Stewart would
 24 text you around 4:30 a.m.?
 25 A. There is no typical -- I didn't know, you

Page 49

1 know, what he was doing or where he was at, but I
 2 don't think there was any real typical time for
 3 anything.
 4 Q. Prior to this, had Michael Stewart ever
 5 told you or -- that he intended to ask you to be a
 6 grantor of a trust?
 7 A. No.
 8 Q. To be clear, was this the first time that
 9 you had heard that you would be asked to be a
 10 grantor of the trust?
 11 A. Yes.
 12 Q. Prior to that time, had Michael Stewart
 13 ever asked you before to be a grantor of any trust
 14 or to be involved in any trust whatsoever?
 15 A. No.
 16 Q. Why did you understand that Michael
 17 Stewart was asking you to be a grantor for his
 18 trust?
 19 A. Like he said, apparently, I was the only
 20 one that he could trust. I'm the only one in the
 21 family that -- in my family that he talks to.
 22 Q. Let me ask about that. What did you
 23 understand Michael Stewart to mean when he said, "I
 24 just need someone I trust to do this, and you're
 25 the only one I trust"?

Page 50

1 A. I don't know.
 2 Q. Did you ask Michael Stewart why he needed
 3 to create a trust or why he needed assistance by
 4 someone that he trusted to create that trust?
 5 A. No.
 6 Q. Why not?
 7 A. I just understood him just -- he trusted
 8 me, I suppose. I know he doesn't trust anybody
 9 else in my family.
 10 Q. And was this before or after Michael
 11 Stewart asked you to transfer approximately
 12 \$147,000 to his attorneys on his behalf?
 13 A. Well, I don't recall what the date was of
 14 the original.
 15 Q. I believe we looked at -- the transfer
 16 into your account was on October 9, 2019, in the
 17 amount of \$147,100; correct?
 18 A. Correct. So it would have been after.
 19 Q. Did you ask Michael Stewart why, after
 20 having you transfer money to attorneys, he needed
 21 to create a trust and needed assistance from
 22 somebody that he could trust in order to do so?
 23 A. No, I did not.
 24 Q. What did you understand Michael Stewart's
 25 reasons were for asking you to be a grantor of his

Page 51

1 trust?
 2 A. I don't recall exactly what it was other
 3 than he just needed a favor and wanted me to help
 4 him out. You know, other than that, I don't know.
 5 Q. Whose trust did you understand this would
 6 be? Your trust, Michael Stewart's trust, or
 7 somebody else's?
 8 A. I thought it was Michael Stewart's trust.
 9 Q. When you spoke with him about this trust,
 10 did he -- did you refer to it as "my trust" as he
 11 did in this text message?
 12 A. Yes.
 13 Q. Okay. Let me turn to page 14 of this
 14 exhibit. Do you see the -- I will scroll down so
 15 you can see it. Do you see the messages sent on
 16 October 28th, 2019, -- I'm sorry, the additional
 17 messages on October 28th, 2019, from Michael
 18 Stewart?
 19 A. Yes.
 20 Q. Do you see where it states, "My attorney
 21 wrote this to explain it to you," and then there
 22 are two paragraphs. Do you see that on pages 14
 23 and 15 of Exhibit 6?
 24 A. Yes.
 25 Q. First, who did you understand Michael

Page 52

1 Stewart to be referring to when he said "my
 2 attorney"?"
 3 A. I do not know.
 4 Q. What did you understand was the purpose of
 5 Michael Stewart sending these two paragraphs to
 6 you?
 7 A. I think he thought I needed clarity on
 8 what it was.
 9 Q. What do you mean by that?
 10 A. On what a grantor was.
 11 Q. And I don't want to put words in your
 12 mouth. Is it your testimony that you understood
 13 this to be Michael Stewart trying to explain what
 14 it is that would be asked of you?
 15 A. Correct.
 16 Q. Did you ever speak with Michael Stewart
 17 about these paragraphs, which I will refer to as
 18 the paragraphs that were written by his attorney to
 19 explain the trust to you?
 20 A. No.
 21 Q. Why not?
 22 A. I didn't understand what it -- what he was
 23 sending me. I didn't know what this was.
 24 Q. Going to page 16, you see that you
 25 responded to the paragraphs written by Michael

Page 1

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF COLORADO
 3
 4 SECURITIES AND EXCHANGE)
 COMMISSION,)
 5)
 Plaintiff,)
 6)
 vs.) Case No. 1:19-CV-02594-RM
 7)
 MEDIATRIX CAPITAL, INC.,)
 8 BLUE ISLE MARKETS, INC.)
 (St. Vincent & the)
 9 Grenadines), BLUE ISLE)
 MARKETS, LTD., MICHAEL S.)
 10 YOUNG, MICHAEL S. STEWART,)
 and BRYANT E. SEWALL,)
 11)
 Defendants,)
 12)
 and)
 13)
 MEDIATRIX CAPITAL FUND,)
 14 LTD., ISLAND TECHNOLOGIES,)
 LLC, VICTORIA M. STEWART,)
 15 MARIA C. YOUNG, HANNA)
 OHONKOVA SEWALL, et al.,)
 16)
 Relief Defendants.)
 17 _____)
 18
 19 DEPOSITION OF JAMES ROACH, II, ESQ.
 20 Phoenix, Arizona
 21 Wednesday, September 23, 2020
 22
 23
 Reported by:
 24 Colette E. Ross, CR
 CR NO. 50658
 25 JOB NO. 200923CC

Page 2

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF COLORADO
 3
 4 SECURITIES AND EXCHANGE)
 COMMISSION,)
 5)
 Plaintiff,)
 6)
 vs.) Case No. 1:19-CV-02594-RM
 7)
 MEDIATRIX CAPITAL, INC.,)
 8 BLUE ISLE MARKETS, INC.)
 (St. Vincent & the)
 9 Grenadines), BLUE ISLE)
 MARKETS, LTD., MICHAEL S.)
 10 YOUNG, MICHAEL S. STEWART,)
 and BRYANT E. SEWALL,)
 11)
 Defendants,)
 12)
 and)
 13)
 MEDIATRIX CAPITAL FUND,)
 14 LTD., ISLAND TECHNOLOGIES,)
 LLC, VICTORIA M. STEWART,)
 15 MARIA C. YOUNG, HANNA)
 OHONKOVA SEWALL, et al.,)
 16)
 Relief Defendants.)
 17 _____)
 18
 19 Deposition of JAMES ROACH, II, ESQ.
 20 was taken on behalf of the Plaintiff, at TIFFANY &
 21 BOSCO, P.A., 2525 East Camelback Road, Seventh Floor,
 22 Phoenix, Arizona, beginning at 11:02 a.m. and ending at
 23 1:37 p.m., on Wednesday, September 23rd, 2020 before
 24 Colette E. Ross, Certified Reporter for the State of
 25 Arizona, reported via videoconference.

Page 3

1 APPEARANCES:
 2 For the Plaintiff:
 3 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
 BY: STEPHEN C. MCKENNA, ESQ. (BY VIDEOCONFERENCE)
 4 Senior Trial Counsel
 - and -
 5 MARK L. WILLIAMS, ESQ. (BY VIDEOCONFERENCE)
 Senior Trial Counsel
 6 Denver Regional Office
 1961 Stout Street, 17th Floor
 7 Denver, Colorado 80294
 (303) 844-1000
 8 mckennas@sec.gov, williamsml@sec.gov
 9
 For the Defendants Mediatrix Capital, Inc.; Blue Isle
 10 Markets, Inc. (St. Vincent & the Grenadines); Blue Isle
 Markets, Ltd.; Michael S. Stewart; and Bryant Sewall;
 11 and Relief Defendants Victoria M. Stewart and Hanna
 Ohonkova Sewall:
 12
 DROHAN LEE, LLP
 13 BY: VIVIAN RIVERA DROHAN, ESQ. (BY VIDEOCONFERENCE)
 680 Fifth Avenue
 14 New York, New York 10019
 (212) 710-0004
 15 vdrohan@dlkny.com
 16
 For Defendant Michael S. Young:
 17
 BY: MICHAEL S. YOUNG (BY VIDEOCONFERENCE)
 18 Pro Se
 5406 South Cottonwood Court
 19 Greenwood Village, Colorado 80121
 (720) 530-8434
 20 youngmikes@protonmail.com
 21
 For the Witness:
 22
 TIFFANY & BOSCO, P.A.
 23 BY: ROBERT D. MITCHELL, ESQ.
 2525 East Camelback Road, Seventh Floor
 24 Phoenix, Arizona 85016
 602-255-6000
 25 rdm@tblaw.com

Page 4

I N D E X

1	WITNESS	EXAMINATION
2	JAMES ROACH, II, ESQ.	
3	BY MR. MCKENNA	7
4		
5		
6	EXHIBITS	
7	EXHIBIT DESCRIPTION	PAGE
8	Exhibit 1 Subpoena	10
9	Exhibit 2 9/18/20 Letter from Mitchell to Williams	12
10		
11	Exhibit 3 Articles of Organization, Wind River Jiroch	30
12	Exhibit 4 Amended and Restated Operating Agreement, Wind River Jiroch	31
13		
14	Exhibit 5 Quitclaim to Wind River Jiroch	35
15		
16	Exhibit 6 Deed of Trust and Assignment of Rents	37
17	Exhibit 7 (Not Utilized)	
18	Exhibit 8 Quitclaim to ALA Trust	42
19	Exhibit 9 ALA Trust Agreement	47
20	Exhibit 10 Property Information from Assessor's Office	49
21		
22	Exhibit 11 Final Balance Sheet, Arizona Premier Title	51
23	Exhibit 12 (Not Utilized)	
24	Exhibit 13 Quitclaim to Wind River Jiroch	58
25	Exhibit 14 Quitclaim to ALA Trust	59

Page 5

1	EXHIBITS	
2	EXHIBIT DESCRIPTION	PAGE
3	Exhibit 15 Conveyance of Silverstone Parcel F to Aaron Stewart	60
4		
5	Exhibit 16 Borrowing Documents re Aaron Stewart	61
6	Exhibit 17 Listing for Silverstone Property	62
7		
8	Exhibit 18 Warranty Deed on Sheridan Property	66
9	Exhibit 19 Deed of Trust and Assignment of Rents on Sheridan Property	68
10		
11	Exhibit 20 Bank Statement for Shawn Stewart	70
12		
13	Exhibit 21 Text Messages	71
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 6

1 (Whereupon James Roach, II, Esq., was duly
2 sworn by the Certified Reporter.)
3 THE REPORTER: Before we proceed, I will ask
4 counsel to agree on the record that, because of the
5 coronavirus pandemic and social distancing, there is no
6 objection to this deposition officer administering a
7 binding oath to the witness remotely. Please state your
8 agreement on the record, beginning with plaintiff's
9 counsel.
10 MR. McKENNA: This is Steve McKenna for the
11 SEC. We agree.
12 MS. DROHAN: This is Vivian Drohan from Drohan
13 Lee, counsel for defendants except for Michael Young and
14 Maria Young. And we agree.
15 MR. YOUNG: This is Michael Young, pro se. I
16 agree.
17 THE REPORTER: Mr. Mitchell.
18 MR. MITCHELL: Yes, we agree.
19 THE REPORTER: Thank you.
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///

Page 7

1 JAMES ROACH, II, ESQ.,
2 called as a witness herein, having been previously duly
3 sworn by the Certified Reporter to speak the truth and
4 nothing but the truth, was examined and testified as
5 follows:
6
7 EXAMINATION
8 BY MR. McKENNA:
9 Q. All right. Well, good morning, Mr. Roach.
10 A. Good morning. Is this Mr. McKenna?
11 Q. This is Mr. McKenna speaking, yes.
12 A. Yes, sir.
13 Q. So thank you for being available today and
14 getting together with your counsel in these coronavirus
15 times. We appreciate it.
16 A. Yes, sir.
17 Q. Would you please state your name for the
18 record.
19 A. My full legal name is James Roach, R-O-A-C-H,
20 II, Roman numeral II.
21 Q. And you are a lawyer, is that correct,
22 Mr. Roach?
23 A. Yes, I am.
24 Q. And you are familiar with depositions?
25 A. Yes, I am.

Page 8

1 Q. Okay. So I will skip over some of the
2 background stuff that you and I as lawyers instruct
3 people before depositions.
4 But I will say that, since we are doing this by
5 video, it is even more important that we try not to
6 speak over each other, that you allow me to finish my
7 question before you begin to answer and, for my part,
8 that I let you finish your answer before I ask another
9 question.
10 That sounds good?
11 A. Yes, sir.
12 Q. Is there any reason today that you cannot give
13 full and fair testimony?
14 A. No, sir.
15 Q. Okay. Mr. Roach, are you familiar with Michael
16 Stewart?
17 A. Yes, I am.
18 Q. Can you tell me how you are familiar with him.
19 A. Mr. Stewart and his wife were referred to me by
20 a local accountant approximately the year 2004.
21 Q. And did they become clients of yours in 2004?
22 A. Yes, they did.
23 Q. And were they -- did you also socialize with
24 the Stewarts or was it strictly a business relationship?
25 A. It has been strictly business.

Page 13

1 to explain what the witness's position is, Mr. McKenna.
 2 There are two components here.
 3 There is the attorney-client privilege. And we
 4 will agree that's really stated the way it is
 5 interpreted in Arizona.
 6 But there is also a separate duty of
 7 confidentiality in Arizona by Arizona Ethics Opinion
 8 that we shared with you and Mr. Roach has been advised
 9 by his counsel concerning. And that basically is an
 10 even broader duty, which requires an attorney to keep
 11 confidential all aspects of their representation of the
 12 client. In fact, in the normal course you can identify
 13 if someone is your client, let's say consent to that.
 14 So it is a very broad confidentiality duty, and
 15 Mr. Roach doesn't want to get himself into a position
 16 where he has violated his ethical obligations under the
 17 Arizona State Bar by violating and revealing
 18 confidential information.
 19 He has got a limited waiver, as he will explain
 20 to you, to address certain information that we suspect
 21 is at the heart of what you are focusing on today, and
 22 he can explain that.
 23 MR. McKENNA: Okay. Thank you for that,
 24 Mr. Mitchell. And, you know, without necessarily
 25 agreeing with you on the scope of the confidentiality

Page 14

1 applicable in Arizona, we appreciate you clarifying your
 2 position on that.
 3 BY MR. McKENNA:
 4 Q. And, Mr. Roach, I guess I will ask you then:
 5 What is the scope of the limited waiver that's going to
 6 allow you to provide some testimony today?
 7 A. I have been -- I have confirmed with the client
 8 that my limited waiver of the attorney-client privilege
 9 and duty of confidentiality will apply solely with
 10 respect to my knowledge or awareness of the asset freeze
 11 order, the pending US District Court action in Denver,
 12 Colorado, and nonsubstantive matters relating to my more
 13 than 16-year representation of the Stewarts.
 14 Q. Okay. And so, for example, if I am, you know,
 15 and I am, going to inquire about some real estate
 16 transactions with properties in Scottsdale, Arizona,
 17 will you be able to give me factual testimony from your
 18 personal knowledge about those transactions?
 19 A. I think my testimony would be limited to seeing
 20 a document and, to the extent I have signed it,
 21 acknowledging that that would be, had been my signature.
 22 Q. And if I were to ask you specifics about the
 23 transaction, for instance, who directed you to purchase
 24 a property or to take a mortgage out or things like
 25 that, is that something that you would invoke either

Page 15

1 attorney-client privilege or confidentiality over?
 2 A. Yes, sir, I would.
 3 Q. And as far as producing documents goes, we --
 4 in the letter from Mr. Roach, which was Exhibit 2, he
 5 had also provided two documents, which were basically
 6 the original and then an amended operating agreement for
 7 Wind River Jiroch. And I am probably pronouncing that
 8 wrong.
 9 A. It is Jiroch, but that's close enough.
 10 Q. Jiroch, thank you.
 11 Do you have other documents that were
 12 responsive to our subpoena that you have not produced
 13 because of either the attorney-client privilege or the
 14 duty of confidentiality?
 15 A. Yes.
 16 Q. Okay. And are you going to provide us with a
 17 privilege log for those documents? I know we brought
 18 this up with Mr. Mitchell. And I'm not criticizing you
 19 for not having done that yet, but I am asking if that's
 20 something we can expect.
 21 MR. MITCHELL: Mr. McKenna, when we spoke by
 22 phone, I did see your email afterwards, which was a bit
 23 surprising to me because you said what you needed was
 24 just a general description of the kinds of documents
 25 that were being withheld such that, if you wanted to go

Page 16

1 back and try and challenge that with the Court, you
 2 could represent what they were. That's what I provided
 3 to you in the letter. In our phone call you told me you
 4 did not need, or maybe it was Mr. Williams told me, you
 5 did not need a privilege log per se. Has that changed?
 6 MR. McKENNA: No. I recall those
 7 conversations, Mr. Mitchell. And that is correct, we
 8 were not asking for a, you know, document-by-document
 9 privilege log from you as we are familiar with as
 10 lawyers, but, rather, a listing of categories. And I
 11 will have to take a look at your letter again, but, and
 12 I will ask him specific questions that will flesh out, I
 13 think, the issue as well as we go along today. So --
 14 MR. MITCHELL: Yeah, I would just direct you,
 15 Mr. McKenna, to Exhibit 2, the second paragraph. I
 16 tried to give you what I thought you would need for the
 17 purposes you described to me.
 18 MR. WILLIAMS: Mr. Mitchell, this is Mark
 19 Williams. And just if I can jump in.
 20 Yeah, you recited our conversation correctly in
 21 that that's what we were asking for at first. I just
 22 want to be clear. I don't believe I had said that that
 23 would be all we would need. It is just that's what we
 24 needed at the present time, for you to tell us that
 25 there were in fact documents you were withholding. But

Page 29

1 Q. And would those records reflect what those
 2 amounts were owed for?
 3 A. You confused me with the question. To the
 4 extent --
 5 Q. Okay.
 6 A. To the extent a detailed invoice went out in
 7 2016 but was never paid, all the invoice might say is
 8 previous balance, previous balance, previous balance.
 9 So any statements would show previous balance, but they
 10 may have been so old in terms of the carrying period
 11 that there would be no specific detail about services
 12 rendered four years earlier.
 13 Q. Okay. I understand that.
 14 A. Yes, there is documentary support.
 15 Q. And those have not been provided to us
 16 because -- well, let me just ask it as a question. Why
 17 have those not been provided to us?
 18 A. They were not provided because of
 19 attorney-client privilege and the duty of
 20 confidentiality.
 21 Q. Okay. I want to ask you a couple questions
 22 about Wind River Jiroch.
 23 A. Jiroch.
 24 Q. Did I say it right, Jiroch?
 25 A. Yes, Jiroch. That's close enough.

Page 30

1 Q. I am getting better. I am getting closer.
 2 A. Yeah.
 3 Q. So Exhibit 3 that I sent over to you was the
 4 articles of organization for that entity. And it looks
 5 like that was, it was formed in May of 2013, is that
 6 correct?
 7 A. That's correct.
 8 Q. And what was the purpose of forming Wind River
 9 Jiroch?
 10 A. It was formed as an LLC to serve as initially
 11 the trustee of a trust that was my own trust.
 12 As you may or may not be aware, in Wyoming
 13 self-settled grantor trusts that are irrevocable may
 14 have, as their trustee, separate entities formed with,
 15 by, or for other family members. And those LLCs, if
 16 serving as trustor, trustee I would say, of one trust or
 17 a series of trusts for one grantor are not subject to
 18 the banking and insurance regulations under Wyoming law.
 19 And, hence, there is no minimum capital requirement.
 20 And it is the primary reason that such a substantial
 21 amount of irrevocable trust work is done in, around, and
 22 with regard to Wyoming.
 23 That's a long answer but it may give you some
 24 perspective.
 25 Q. Yeah, I appreciate that.

Page 31

1 And is that your signature on the front of
 2 Exhibit 3?
 3 A. Yes, sir, it is.
 4 Q. And who is Charles Larson?
 5 A. Charles Larson was, still is, a CPA who, at the
 6 time, was a Wyoming resident and could serve as the
 7 statutory agent or resident agent for that entity.
 8 Q. And what is Wind River Advisors, Inc.?
 9 A. Wind River Advisors, Inc., which I believe is
 10 no longer chartered, I believe the charter was allowed
 11 to lapse, was an entity formed by Mr. Larson and by me
 12 to serve occasionally as the manager of the various LLC
 13 trustees of irrevocable trusts. Because, as I
 14 mentioned, you might have children who are the owners of
 15 the LLC trustee, but the one thing practitioners in my
 16 discipline understand is that families are not diligent
 17 in filing annual reports, tax returns, and similar types
 18 of items. So to make sure that there wasn't a
 19 disqualification of an entity or failure of its trustee
 20 to maintain its charter, we established Wind River
 21 Advisors to fill that breach when it was necessary.
 22 Q. Okay. And then Exhibit 4 is an amended and
 23 restated operating agreement for Wind River Jiroch. Do
 24 you see that?
 25 A. Yes, sir. Yes, sir.

Page 32

1 Q. And this was executed, it looks like, on
 2 September 25th of 2019, is that correct?
 3 A. Yes, sir.
 4 Q. And is that your signature on the last page of
 5 this document?
 6 A. Hang on. Yes, sir.
 7 Q. And what was the purpose of amending and
 8 restating the operating agreement for Wind River Jiroch?
 9 A. Mr. Larson had moved from Wyoming to Utah and,
 10 therefore, was never, or from that point on was not able
 11 to serve as the statutory resident agent for the entity.
 12 So in that year I modified this instrument to designate,
 13 in Section 1.5, Scott Meier, Esquire, as the stat agent
 14 for Wind River Jiroch, LLC.
 15 Q. And have there ever been any other members in
 16 Wind River Jiroch other than yourself?
 17 A. No, sir.
 18 Q. Okay. So I want to -- we already talked a
 19 little bit about the asset freeze, and you told me that
 20 you became aware of it in or around July of this year,
 21 2020.
 22 A. Yes, sir.
 23 Q. And you became aware of it through your
 24 attorney, Mr. Mitchell, is that correct?
 25 A. Yes, sir.

Page 33

1 Q. Did Michael Stewart or Victoria Stewart ever
 2 mention anything about this litigation to you?
 3 A. No, sir.
 4 Q. How about, just to close it out, Aaron Stewart
 5 or Shawn Stewart?
 6 A. No, sir.
 7 Q. Would you have expected Michael or Victoria
 8 Stewart to mention this lawsuit to you in connection
 9 with the work you were doing for them in toward the end
 10 of 2019?
 11 MR. MITCHELL: I would object. It calls for
 12 speculation.
 13 BY MR. McKENNA:
 14 Q. Well, let me ask it this way. Were you
 15 surprised when you heard about the lawsuit that the
 16 Stewarts had not informed you about it?
 17 MR. MITCHELL: Answer.
 18 THE WITNESS: Yes. Yes, quite surprised.
 19 BY MR. McKENNA:
 20 Q. And why was that, Mr. Roach?
 21 A. If roles were reversed, I would certainly have
 22 made sure that my lawyer knew about it.
 23 Q. All right. Let's talk about some of these
 24 properties, and we will see what you are willing to tell
 25 me about what you know about them.

Page 34

1 The first one I wanted to talk about is the
 2 property, the address is 3821 North 85th Street. Are
 3 you familiar with that address?
 4 A. I am familiar with the address.
 5 Q. And how are you familiar with that address?
 6 A. It was one of two properties that I was advised
 7 were available to serve as collateral for the payment of
 8 the attorney's fees that I had been owed for that I had
 9 been owed for a substantial period of time. And I was
 10 reluctant to go forward providing future and further
 11 services without some collateral to secure those old
 12 obligations.
 13 Q. And what was the other property that was to
 14 serve as collateral for those old obligations?
 15 A. I only know it as the Silverstone property.
 16 Q. Was that a property that was located in
 17 Scottsdale, Arizona?
 18 A. I believe so, yes, sir.
 19 Q. Would that be 7349 East Casitas Del Rio?
 20 A. That sounds like it. That sounds like the
 21 correct address.
 22 Q. Okay. Okay. And so this, these properties,
 23 you came to understand that they were going to serve as
 24 collateral for the approximately \$110,000 plus interest
 25 that was owed to you in late September, is that correct?

Page 35

1 A. Yes, sir.
 2 Q. And --
 3 A. Now, let me modify that answer.
 4 Q. Excuse me.
 5 A. The discussions about those properties occurred
 6 in late August, I think, and early September. I am
 7 remembering around the 7th of September. So the
 8 discussions were before the end of September.
 9 Q. And that's of 2019, correct?
 10 A. Yes, sir.
 11 Q. Okay.
 12 A. Thank you.
 13 Q. And the records show that this 3821 North 85th
 14 Street property was purchased by Keystone Business Trust
 15 on or about May 7th of 2018. We touched on Keystone
 16 Business Trust, but are you aware of who the trustees of
 17 that entity were?
 18 A. My understanding is that the trustees were
 19 Michael and Victoria Stewart.
 20 Q. And how about your understanding of the
 21 beneficiaries of the Keystone Business Trust?
 22 A. I didn't know anything else about that.
 23 Q. Okay.
 24 A. Yeah.
 25 Q. So if you look at Exhibit 5 --

Page 36

1 A. Yes, sir.
 2 Q. -- it is a, it is a September 20th, actually
 3 executed on September 23rd, 2019, quitclaim over this
 4 property on 85th Street where Keystone Business Trust
 5 quitclaims it to your entity, Wind River Jiroch. Do you
 6 see that?
 7 A. I see it, yes, sir.
 8 Q. And is that your signature on -- nope. Never
 9 mind. Wrong document, no signature. No signature from
 10 you on this one. So strike that.
 11 Can you tell me why Keystone quitclaimed this
 12 property to Wind River Jiroch?
 13 A. When I required additional collateral, the
 14 Stewarts advised me that there were two properties that
 15 they could use to collateralize the obligations to me.
 16 And as the discussion continued, I said are they in your
 17 name. Well, no, they are in a trust. I said do you
 18 have the power and the right to use those properties as
 19 collateral, what permission of protocols are there.
 20 So they told me they were the co-trustees and
 21 that they have the power. I asked them for copies of
 22 the cover page of the trust, the signature page of the
 23 trust, and the powers clause, which is routine. When
 24 you are dealing with any financial institution about
 25 anything to do with the trust, they want to see those.



Robert D. Mitchell
Direct (602) 452-2730
Cell (602) 722-3855
rdm@tblaw.com

September 18, 2020

Mark L. Williams, Esq.
Senior Trial Counsel
U.S. Securities and Exchange Commission
Denver Regional Office
1961 Stout St., Suite 1700, Denver, CO 80294

Re: SEC v. Mediatrix Capital, Inc. Civil Action No.: 1:19-cv-02594-RM

Dear Mr. Williams:

Thank you for your September 16, 2020 e-mail confirming that you will be starting the deposition of Mr. Roach at 11:00 am PT on September 23, 2020.

Mr. Roach has reviewed his files and indicates that he has several dozen or more e-mails between himself and his clients, some draft transactional and trust documents, some finalized and signed documents prepared on behalf of his clients, and some billing records, and a few other documents, that he has not turned over based on privilege and confidentiality.

Mr. Roach has sought and obtained the advice of independent ethics counsel upon which he will be relying in connection with this testimony. He will be asserting both the attorney-client privilege and the lawyer's duty of confidentiality. A lawyer is broadly required to maintain the confidentiality of all information relating to representation of his or her clients, regardless of the fact that the information can be discovered elsewhere. *See, e.g., Arizona Ethics Opinion 00-11* enclosed.

I look forward to visiting with you on September 23, 2020.

Very truly yours,

A handwritten signature in blue ink that reads 'Robert D. Mitchell'.

Robert D. Mitchell

00-11: Confidentiality; Subpoenas

11/2000

The Opinion discusses the ethical duty of "confidentiality" when a lawyer is requested, by a subpoena, to disclose information related to his representation of a client, when the client does not authorize the disclosure. [ERs 1.6(a), 8.4]

FACTS[1]

A lawyer regularly represents claimants and their dependents in social security benefits cases. Federal law precludes attachment or assignment of social security benefits (42 U.S.C. § 407), except where the benefit or assignment of benefits involves child support (or alimony). 20 C.F.R. § 404.1820(b). The inquiring attorney anticipates that, based on past history, he may receive a subpoena or court order, in a child support proceeding, to provide information about social security benefits payable to dependent children arising from the lawyer's representation of the client in a previous social security benefits case. The inquiring attorney expects that his client will either not authorize the lawyer to disclose, or may explicitly prohibit the lawyer from disclosing, privileged or confidential information to third parties or to a court, in the separate child support proceeding.

QUESTIONS PRESENTED

1. Whether a lawyer ethically may disclose, pursuant to a subpoena issued in a separate child support proceeding, information about a social security case from which benefits would be payable to dependent children, where the client does not expressly authorize (or specifically prohibits) the disclosure of otherwise privileged information to third parties or to the court.
2. Whether a lawyer ethically may invoke ER 1.6(a), without regard to the so-called "attorney-client" evidentiary privilege rule, and decline to disclose, pursuant to a subpoena issued in a separate child support proceeding, information about a social security case upon which benefits would be payable to dependent children, where the client does not expressly authorize or specifically prohibits the disclosure of confidential information to third parties or to the court.

RELEVANT ETHICAL RULES**ER 1.6. Confidentiality of Information**

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b), (c) and (d) or ER 3.3(a)(2).

* * * *

ER 8.4. Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another;

* * * *

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

* * * *

OPINION

In Ariz. Op. 97-05, the Committee distinguished the requirements of confidentiality under ER 1.6 from the requirements of the attorney-client privilege under the substantive law of evidence. The Committee noted there that:

Although the concepts of confidentiality and the attorney-client privilege have similar objectives, they are entirely separate. Under Arizona law, the attorney-client privilege is codified both in the civil and criminal contexts. A.R.S. § 13-4062(2) (criminal) and A.R.S. § 12-2234 (civil). Confidentiality of communications between an attorney and client is guaranteed by ER 1.6. While it is not uncommon for the two concepts to be discussed as if they are interchangeable, they are entirely separate legal concepts. *See, e.g., Wolfram, Modern Legal Ethics*, § 6.3.7 (1986 Edition); *Laws. Man. on Prof. Conduct (ABA/BNA) 55:301-304. See also In re Criminal Investigation No. 1/224Q, 602 A.2d 1220 (Md. 1992).*

The Comment to ER 1.6 of the Rules of Professional Conduct, clarifies the distinction between the ethical rule of confidentiality and the substantive law of "attorney-client" privilege:

The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations *other* than those where evidence is sought from the lawyer through compulsion of law. (emphasis added).

* * * *

If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, ER 1.6(a) requires the lawyer to invoke the privilege when it is applicable. *The lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client.* (emphasis added).

Under ER 1.6, a lawyer is required to maintain the confidentiality of all information relating to representation, regardless of the fact that the information can be discovered elsewhere. *Laws. Man. on Prof. Conduct (ABA/BNA) 55:304.* Indeed, the lawyer is required to maintain the confidentiality of information relating to representation even if the information is a matter of public record. *Ex Parte Taylor Coal Co.*, 401 So. 2d 1 (Ala. 1981), *cited in* *Ariz. Op. 97-05* (July 10, 1997).

The *Laws. Man. on Prof. Conduct (ABA/BNA) 55:1202* provides an example where one of the parties in a divorce proceeding involving a child custody battle leaves the jurisdiction with the children. The party's lawyer knows where his client is, and the other party seeks a court order requiring the lawyer to disclose this information. Under the old Code of Professional Responsibility, the lawyer must comply with such a court order. *Maru Digest of Bar Association Ethics Opinions, 1817* (Vermont Bar Association Op. 77-16).

The questions the lawyer is called upon to answer involve facts learned in the attorney-client relationship. Therefore, he should not answer the questions without attempting to invoke the privilege. Answers to the questions might also be detrimental to the client; thus the ethical rule on confidentiality also is at stake. However, if the court addresses these issues and nevertheless orders the lawyer to testify, he should do so. *Maru 12763* (State Bar of Texas Informal Op. 101-1979).

In *Ariz. Op. 98-05* (March 1998), the Committee noted that the ethical duty of client-lawyer confidentiality applied to situations other than those when evidence is sought from the lawyer through compulsion of law. The confidentiality rule applies, said the Committee, not merely to matters communicated in confidence by the client, but also to all information relating to the representation, whatever its source.

Perhaps the most helpful prior opinion of the Committee to this inquiry is Ariz. Op. 91-02 (January 15, 1991), where the Committee was asked whether an attorney had an ethical obligation to disclose overpayments to a workmen's compensation insurer when the client insisted that the inquiring attorney not disclose the existence of the overpayments to the compensation insurer. Does the inquiring attorney have an ethical duty to withdraw from further representation of the client in the matter?

In Ariz. Op. 91-02, the Committee concluded that a lawyer may not reveal to the compensation insurer the fact that his client's monthly compensation checks are in excessive amounts. However, the inquiring attorney must withdraw from further representation of the client, because he cannot ethically assist the client in criminal or fraudulent conduct. The inquiring attorney must refund to the compensation insurer any fees he has received in excess of the amount which he was properly entitled to receive. He should refund these amounts through some third person, so that his client's confidences will be preserved.

In the instant inquiry, the Committee now narrows its focus to ER 1.6(a). The Comment to ER 1.6 would appear to state that a lawyer may invoke the attorney-client privilege (included in the confidentiality rule) when called as a witness to give testimony concerning a client. But, because the purview of ER 1.6 is broader than the attorney-client privilege, the question becomes may a lawyer ethically invoke ER 1.6(a) and refuse to testify regarding any information relating to representation of the client other than communications directly from the client to the attorney? For example, assume that a lawyer is called to testify as a witness about any matters relating to the representation of the client and is not required to testify regarding any communications from the client. May an attorney in that case refuse to testify based on ER 1.6(a) about matters even though the attorney-client privilege may not technically apply? The Comment to ER 1.6 is not very helpful because it provides that: "[t]he attorney-client privilege is differently defined in various jurisdictions. If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, *ER 1.6(a) requires the lawyer to invoke the privilege when it is applicable.*" (emphasis added).

If ER 1.6(a) is broader than the attorney-client privilege, and an attorney is called as a witness to give testimony concerning any aspect of the representation of the client, the attorney-client privilege would not, in fact, as a matter of substantive law be available to the attorney because it applies only to client communications.

The invocation of the attorney-client privilege would appear to be ineffective because the material sought by the tribunal does not relate to a communication by the client to the attorney, but rather to some other information related to the representation of the client. The Comment is confusing because it commingles ER 1.6(a) with the evidentiary privilege, stating that it requires that the attorney invoke the attorney-client privilege and yet earlier in the Comment to ER 1.6 a distinction is drawn between the attorney-client privilege and the rule of confidentiality.

The question thus narrows: does ER 1.6 apply to an attorney who has been called as a witness who has knowledge related to his representation of his client that is not a communication from his client under the attorney-client privilege, and may the attorney ethically reveal information relative to the representation of the client as a witness before a court?

Public policy would appear to favor preservation of confidential information even though it may not necessarily be privileged. Public policy also would appear to be overwhelmingly in favor of disclosure upon a final order of the court in the separate child support proceeding, whether the disclosure is grounded in the attorney-client privilege or pursuant to ER 1.6.

This Committee believes that it is ethically required for an attorney to invoke ER 1.6 and refuse to disclose any knowledge related to the attorney's representation of his client even though the knowledge is not gained from communications directly from the client. Therefore, the Committee believes that an attorney must invoke the attorney-client privilege where a communication from the client to the attorney is extant. Moreover, an attorney must invoke ER 1.6(a), without reference to the attorney-client privilege, as an additional ground for refusing to disclose information related to his representation of his client, even though such knowledge does not derive from client communications. However, it would appear whether the attorney invokes the attorney-client privilege, or ER 1.6(a), that the attorney is obliged to disclose either attorney-client privileged information or confidential information, as described in ER 1.6(a), upon final order of a court or other tribunal of competent jurisdiction.

What constitutes a "final order" of a court or other tribunal of competent jurisdiction is problematic. Criminal attorneys might well argue that before revealing any such confidential information, and even though the lawyer may be held in contempt and directed to jail unless he or she purges himself or herself by divulging the confidential information, the lawyer must await a final order by the highest court of appellate review and the mandate is spread relative thereto, if the original order of the lower court is appealed. Secondary authorities tend to support the notion that for purposes of the Comment to ER 1.6, "final order" simply refers to an order rendered by a court or a tribunal of competent jurisdiction, without more. Laws. Man. on Prof. Conduct (ABA/BNA) 55:1308. Note: a subpoena is not a "final order."

CONCLUSION

A lawyer shall ethically disclose information pursuant to a final order in a separate child support proceeding about a social security case from which benefits shall be payable in the future to dependent children, even where the client did not expressly authorize (or indeed specifically prohibited) the disclosure of attorney-client privileged communications to third parties or to a court.

Significantly, a lawyer shall also invoke ER 1.6(a) and refuse to disclose information relating to the representation of the client (regardless of whether the attorney-client privilege is applicable and the communication came from the client); provided, however, that even in the case of the invocation of ER 1.6(a), the attorney is still ethically obliged to comply with a final order rendered by a court or tribunal of competent jurisdiction when ordered to disclose confidential information.

[1] Formal Opinions of the Committee on the Rules of Professional Conduct are advisory in nature only and are not binding in any disciplinary or other legal proceedings. © State Bar of Arizona 2000

1:43 ↗

5G

Phone



Mike Stewart - ALA >

iMessage

Fri, May 29, 7:44 AM

Hey Mike,
This is Joe Mastrilli with
Venture REI. I'll give you a
call in about 45 to an
hour. I might have some
flip properties for you.

Ok

On a job now, make it 2
hrs please

Sure. I have one in old
town and one in Arcadia.
Are those area you're
looking to buy?

Yes

Fri, May 29, 10:38 AM



iMessage



1:44 ↗

5GE 🔋

Phone



Mike Stewart - ALA >

Yes

Fri, May 29, 10:38 AM

Is now a good time?

Sure

Joe Mastrilli

Sun, May 31, 9:39 AM

Good morning Joe. Never got that email. Been formulating a plan and want to get going ASAP

My personal email is shorter.



iMessage



1:45

5G

Phone



Mike Stewart - ALA >

[Redacted]

Sun, May 31, 12:07 PM

Ok I'll be back home in a bit.

No worries

Want to see if there are any properties we can pick up this week or next

Mon, Jun 1, 11:18 AM

Good morning Joe, still swoon the email of properties we discussed last week. Thx! Mike

I haven't seen a many with decent returns. I don't t want to send you



iMessage



1:45 ↗

5G

Phone



Mike Stewart - ALA >

last week. Thx! Mike

I haven't seen a many with decent returns. I don't t want to send you crap. Try this one for now. I some of the work has already been completed. If not I will pull my inventory list.

2318 N 87th Ter,
Scottsdale

https://www.dropbox.com/sh/yupfuvs8imfw34e/AADb460Hr8ht5o82xzCH_Ue6a?dl=0

3 bed / 2 bath
1,659 sqft per tax
records



iMessage



1:45 ↗

5G

Phone



Mike Stewart - ALA >

1,659 sqft per tax records
Pool
Newer roof

Notes

The house was a 4 bed/2 bath previous seller converted two bedrooms to an oversized third bedroom. New Garage door. Before the roof was replaced/repared there was a minor leak in garage where the drywall wasn't ever completed after, popcorn ceilings need scraped in one room. New slider from living room to atrium.

Close of Escrow
6/5/2020



iMessage



1:45 ↗

5G

Phone



Mike Stewart - ALA >

room. New slider from living room to atrium.

Close of Escrow
6/5/2020

Price \$355k

This one looks good.
We'll swing by today

Let me see if I can get you inside today.

Mon, Jun 1, 1:47 PM

The t
Your entity name?
TS Squared contractors
LLC?

ALA Trust



iMessage



1:45

5G

Phone



Mike Stewart - ALA >

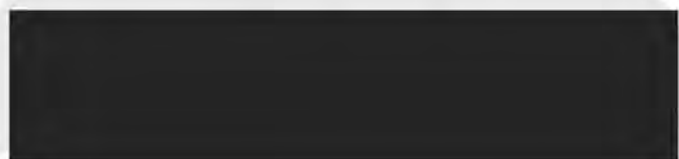
LLC?

ALA Trust

14582 W Pasadena Ave
Litchfield Park AZ 85340
James Roach -Trustee

Mon, Jun 1, 4:33 PM

What's a good email to send the docs for signing?



Documents sent for signature could not be delivered

DocuSign
[Redacted]



iMessage



1:46 ↗

5GE 🔋

Phone



Mike Stewart - ALA >

Documents sent for signature could not be delivered

DocuSign



Documents you sent for electronic signature could not be delivered to this email address: defender1989@protonmail.com

The destination email system provided this

DocuSign couldn't deliver the email. Can you verify it correct?

ProtonMail

Sorry

Ok you should have it. I just did a non



iMessage



1:46 ↗

5GE 🔋

Phone



Mike Stewart - ALA >

ProtonMail

Sorry

Ok you should have it. I just did a non commission agreement because it's off market. I represent you as normal transaction if you'd like. I'm still working to see if I can get it at a lower price.

Ok

Will check when I get back in a bit

No problem! I'll work on price until then.

Ok thx



iMessage



1:47

65



Phone



Mike Stewart - ALA >

Ok thx

Tue, Jun 2, 8:52 AM

Sent you the proper verbiage for trustee

Ok. I'll make the changes and send it back shortly.

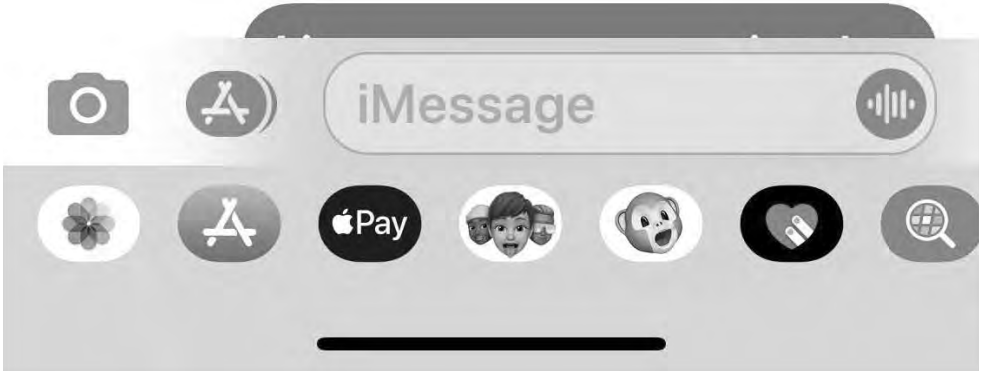
Any chance if getting in today?

Let me ask

Thx

Tue, Jun 2, 9:56 AM

Need the docs ASAP so I can leave please



1:47 5G

Phone

Mike Stewart - ALA >

Tue, Jun 2, 9:56 AM

Need the docs ASAP so I can leave please

I just sent you a revised contract. I'll get you in touch with title to deposit EM.

Ok

Tue, Jun 2, 1:15 PM

[Redacted]

Yup, just emailed you too and cc'ed him so it won't go to junk

Tue, Jun 2, 2:31 PM

Should have now

iMessage

Apple Pay

1:47

65



Phone



Mike Stewart - ALA >

Tue, Jun 2, 2:31 PM

Should have now

Yeah I received it.
Thanks! Did Penny from Driggs reach out yet?

Ok

Tue, Jun 9, 11:49 AM

I have two bigger projects in Arcadia if you're interested

Tue, Jun 9, 1:07 PM

Ok, let's see them please

Tue, Jun 9, 2:29 PM



1:47

65



Phone



Mike Stewart - ALA >

Ok

Tue, Jun 9, 11:49 AM

I have two bigger projects in Arcadia if you're interested

Tue, Jun 9, 1:07 PM

Ok, let's see them please

Tue, Jun 9, 2:29 PM



iMessage



1:48 ↗

65



Phone



Mike Stewart - ALA >

52nd st
dropbox.com

Asking \$899k.
ARV - \$1.8M to \$2M
Huge lot



Seven lots - \$1.85M.

Yah that's a bit more than I can handle



iMessage



1:48 ↗

65

5GE 🔋

Phone



Mike Stewart - ALA >

I can handle

Both or the seven lots?

Both

I want to stay under 500

Yeah they're big projects. They were just sent to me.

We'll be able to do 2-3 properties a month under 500k

Yah, just not in the budget right now

Thx

Tue, Jun 9, 8:05 PM



iMessage



1:48 ↗

65

5GE 🔋

Phone



Mike Stewart - ALA >

Thx

Tue, Jun 9, 8:05 PM



-- bd | 2 ba | 2,499 sqft
 8221 E Sheridan St, Scottsdale, AZ 85257
 ● Off market | Zestimate®: \$532,899
 | Rent Zestimate®: \$2,450/mo
 Est. refi payment: \$2,387/mo 💰 Get current rates

Home value Owner tools Home details Neigh >

I can lock this down at \$425k. ARV is \$600+

You won't find a 4/2 - 2,499sqft house with a



iMessage





Mike Stewart - ALA >

You won't find a 4/2 - 2,499sqft house with a pool in old town like this.

Ok

Address?

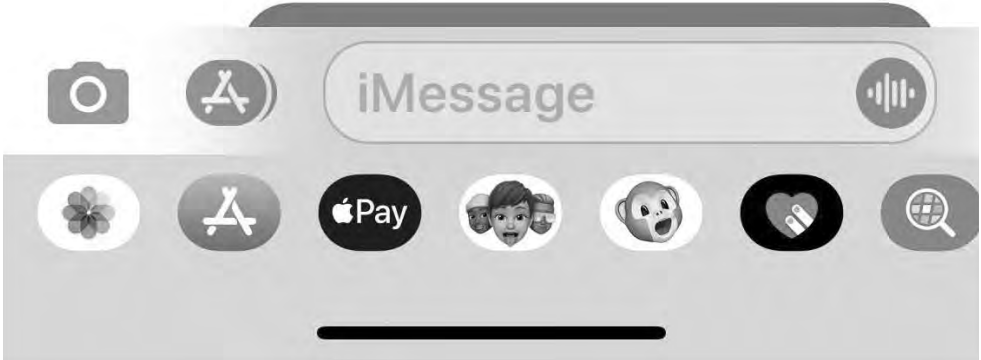
It's in the photo.
8221 E Sheridan St
Scottsdale, AZ 85257

Wed, Jun 10, 7:39 AM

When can I get in?

Wed, Jun 10, 10:50 AM

Joe can we get in today?



1:49 5G

Phone

Mike Stewart - ALA >

Wed, Jun 10, 10:50 AM

Joe can we get in today?

I don't have it locked up yet. Once I do we can get it

Ok

Fri, Jun 12, 2:59 PM

Lockbox code - Lockbox on the right side of driveway on fence.

Lol it was unlocked

Did you already go?

Just left

iMessage

Apple Pay



Mike Stewart - ALA >

Did you already go?

Just left

Thoughts

Write it up

Holy shit though, the renters were animals

Yeah that's what I heard.
Lol

Fri, Jun 12, 4:49 PM

I'll docusign the docs over the weekend. I'm in Carlsbad right now

Ok



iMessage



1:51

Phone

5GE



Mike Stewart - ALA >

Mon, Jun 15, 4:34 PM

What's your cost on a 500 to 800sqft extension? I have another property that if you kept the budget under \$100k you have about \$100k to \$150k spread.

I don't know if it would be worth it at the current sqft.

Mon, Jun 15, 6:40 PM

About \$85 a sq ft

Mon, Jun 15, 7:51 PM



iMessage



1:51

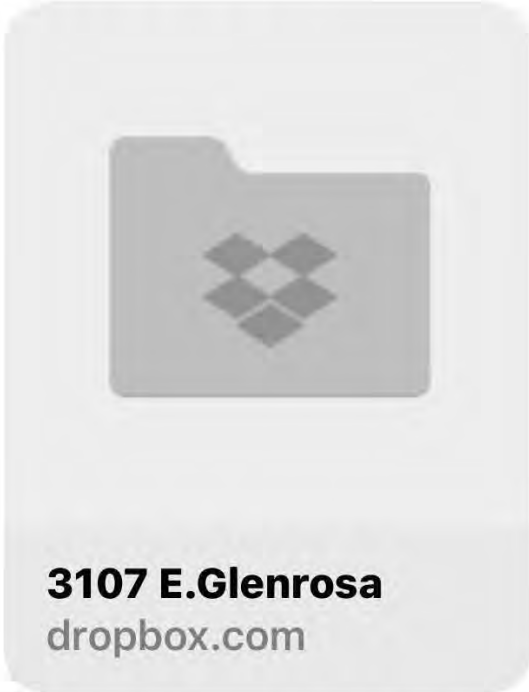
65

5GE



Mike Stewart - ALA >

Mon, Jun 15, 7:51 PM



Check out this one as well.

What's the price?

\$369k

Ok let me research the area



iMessage



1:52

65

5GE



Mike Stewart - ALA >

area

It's a great area! Madison school district and one street over is Arcadia lite. It's also next to a nice park. Across the steet sold for mid \$500's and there are a few \$700-800k houses in the neighborhood.

Ok



My friend is working on 2715 E Turney which is a block away. I think he'll be in the high \$700's or



iMessage



1:52 ↗

65

5G E



Mike Stewart - ALA >

My friend is working on 2715 E Turney which is a block away. I think he'll be in the high \$700's or even \$800k when done.

Tue, Jun 16, 12:09 PM

3032 N 34Th St,
Phoenix, AZ 85018

Currently occupied w/
renter paying \$1,000/mo
but will be out at COE.

Currently - 2 bed 1 bath
762sqft
Lot 8,363
Price \$199,900
Newer Roof, New A/C
and has dual pane
windows.



iMessage



1:52 ↗

65

5G E



Mike Stewart - ALA >

Newer roof, New A/C and has dual pane windows.

ARV cosmetic \$15-20k rehab - \$275k

ARV w/adding sqft - \$425k to \$450

ARV as a new built - \$550k

No pics yet but clean inside.

Good one

Call me when you're free.
No rush

Tue, Jun 16, 6:03 PM



iMessage



1:52 ↗

65

5GE 🔋



Mike Stewart - ALA >

Tue, Jun 16, 6:03 PM

Having diner with my family. Call you back in a bit

Ok I have the 34th street property under contract so I just to discuss when you're free to chat

Wed, Jun 17, 1:44 PM

Yeah I think we can get \$275k on a easy flip. I may even have a buyer already lined up.

I also under wrote the property any buy and hold investor would be happy with an 11.95%



iMessage



1:52 ↗

65

5GE 



Mike Stewart - ALA >

Wed, Jun 17, 1:44 PM

Yeah I think we can get \$275k on a easy flip. I may even have a buyer already lined up.

I also under wrote the property any buy and hold investor would be happy with an 11.95% return and I was supper conservative comps.

Wed, Jun 17, 6:25 PM

I just sent the assignment contract for 34th st to both you and James. We're probably not closing Friday but the dates are on there.



iMessage



1:52 ↗

65

5GE 🔋



Mike Stewart - ALA >

Thu, Jun 18, 8:24 AM

Ok.

Running about 15 - 20 minutes behind

Ok so around 9:15?

Yes please

9:15-9:20



Thu, Jun 18, 10:54 AM

Home
thinktrio.com



iMessage



1:53 ↗

65

5GE 🔋



Mike Stewart - ALA >



Shared Listings

flexmls.com

Here are those model match listings. The \$675k one is active and way too aggressive but hopefully they get it

Thx Bro

Can you send me the plans too please? Thx



iMessage



1:53 ↗

65

5GE 🔋



Mike Stewart - ALA >



It should be in the last picture in the photos

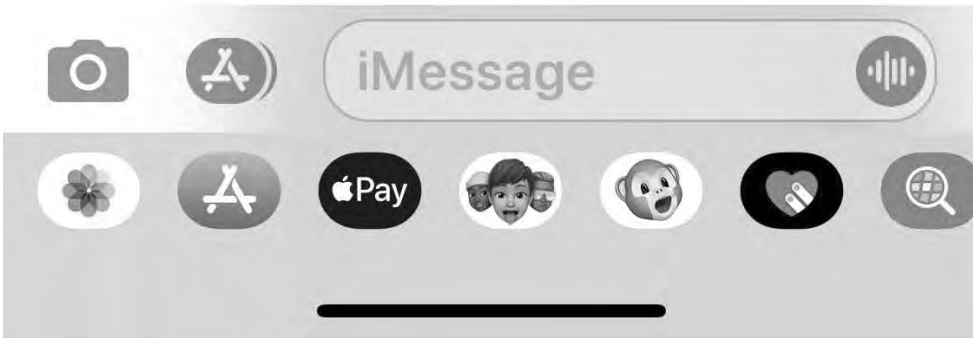
Oh, sorry

Fri, Jun 19, 2:47 PM

Call me when you can. Sheridan is ready to go. Just need details.

Ok be about 45mins

Sat, Jun 20, 11:48 AM



1:53 ↗

65

5GE 🔋



Mike Stewart - ALA >

Ok be about 45mins

Sat, Jun 20, 11:48 AM

I just emailed you and James the contract for Sheridan. I'll send you the net sheet shortly. I'm waiting to hear back on title and escrow fees. If my title guy will match the hold open policy from the current title company it would be a lot cheaper to transfer it over and use them for the hold open policy. It could save you up to \$1000-\$1500 if so.

Ok great

Sat, Jun 20, 1:13 PM



iMessage



1:54 ↗

65

5G



Mike Stewart - ALA >

Sat, Jun 20, 1:13 PM

Seller sign the contract. Well open escrow on Monday. It look like you'll get between a 16% return on the low side and 23% on the high side.

Sat, Jun 20, 4:07 PM



**7427 E WINDSOR AVE,
Scottsdale, AZ 85257**
flexmls.com



iMessage



1:54 ↗

65

5GE 🔋



Mike Stewart - ALA >

**7427 E WINDSOR AVE,
Scottsdale, AZ 85257**
flexmls.com

This might be a good deal if we can get it around \$340k maybe \$350. ARV would be high \$400's and could fetch close to \$500.

Interesting.

Mon, Jun 22, 11:51 AM

3260 N Hayden Rd #201
Scottsdale, AZ 85251

Mon, Jun 22, 5:54 PM

This Windsor property I sent yesterday was actually on the mls.



iMessage



2:02

65

5G



Mike Stewart - ALA >

sent yesterday was actually on the mls. That's why it was on realtor.com

Ok

Tue, Jun 23, 6:28 PM

Did you talk to the hard money guys?

Tue, Jun 23, 8:00 PM

Sorry was in emergency room the last 6 hrs with a kidney stone. Played phone tag and missed Casey's call too

Will deal with all in early am



iMessage



2:02

65



Mike Stewart - ALA >

Will deal with all in early am

I hope everything is ok.

Fine just hurts like a motherfucker

Wed, Jun 24, 12:45 PM

I think I have a better hard money option. The 2% upfront is going to kill you. Call me when you're available.

Chris Eymann  >

Text Chris. He's out of town but he'll reply to text.



iMessage



2:03 ↗

65

5G



Mike Stewart - ALA >

Text Chris. He's out of town but he'll reply to text.

15% Down
12% interest
\$700 flat fee

Ok

20% during virus shit but all else the same. He asked you send him the contract

Wed, Jun 24, 3:19 PM

Who I the check for down made out too?
Jetclosing?

Fri, Jun 26, 10:32 AM



iMessage



2:03 ↗

65

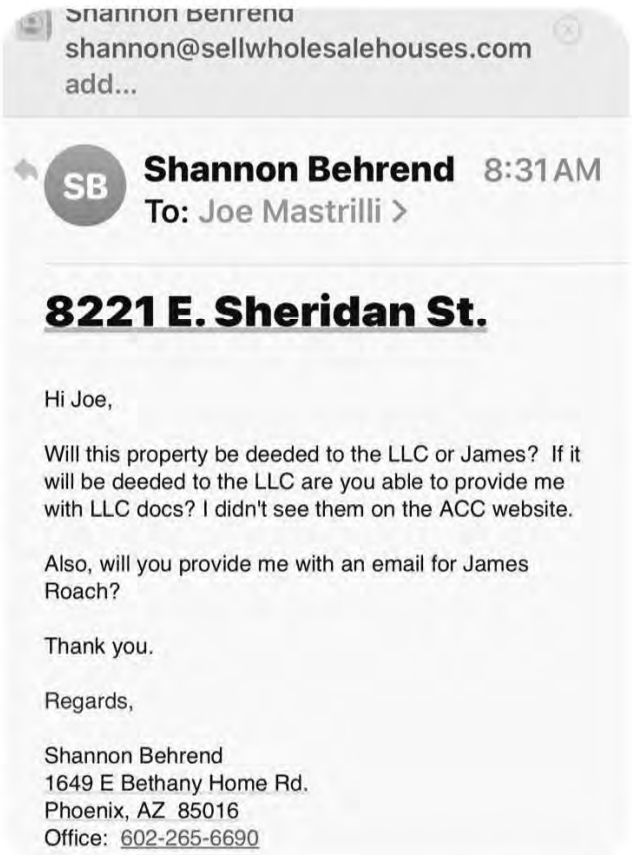
5GE 🔋



Mike Stewart - ALA >

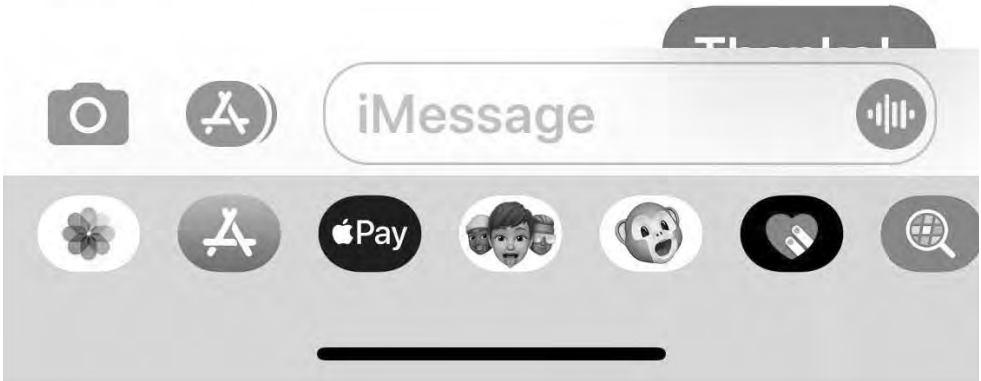
Jetclosing?

Fri, Jun 26, 10:32 AM



Check your email. Can you reply to it.

On it now



2:03

65

5G



Mike Stewart - ALA >

On it now

Thanks!

Having Jim send trust docs



Should be able to close any day after Tuesday next week

Fri, Jun 26, 12:14 PM

Need the Name of Sheridan Lender, Loan Officer Name, and Lender Phone Number for the Jet Closing Docs. That would be Chris? What's his last name?

Eymann



iMessage



2:03 ↗

65

5G



Mike Stewart - ALA >

What's his last name?

Eymann

Bane if company?

Name sorry

Wed, Jul 1, 7:49 AM

Closing docs signed, wire ordered should go out about 9am. Jim is in Michigan and docs were overnighted back so it won't record until tomorrow but all done on our end.



Thu Jul 2 10:12 AM



iMessage



2:04

65



Mike Stewart - ALA >

tomorrow but all done on our end.



Thu, Jul 2, 10:12 AM

How we looking? Seller been texting me all morning.

Done on our end

Jet received docs 30 mins ago

Call me if you can

Received funds yesterday

Sat Jul 4 6:36 AM



iMessage



2:04 ↗

65

5GE 🔋



Mike Stewart - ALA >

Call me if you can

Received funds yesterday

Sat, Jul 4, 6:36 AM

Town Home Property address
7349 E Casitas Del Rio
Scottsdale AZ 85266

Tue, Jul 7, 10:39 AM

Stephen Sorensen tenant

[Redacted]

[Redacted]

Out lot is the premium lot as well



iMessage



2:04 ↗

65



Mike Stewart - ALA >

Out lot is the premium lot as well

Wed, Jul 8, 2:57 PM

Joe what's the Lease Option plan again?

Home
thinktrio.com



Thu, Jul 9, 9:56 AM

7 OFF MARKET FLIP -

**8473 E PLAZA AVE.
SCOTTSDALE AZ 85251**



Great 85250 off market flip opportunity. 3/2 with better than average floor plan for the size. Especially the bathroom layouts. Feels larger "As Is". Long driveway. Great roof. Awesome location. AC runs great. Gas. Room to add on to this home and make it a 4/3 as many have done

iMessage



2:04 ↗

65

5G



Mike Stewart - ALA >

Especially the bathroom layouts. Feels larger "As Is". Long driveway. Great roof. Awesome location. AC runs great. Gas. Room to add on to this home and make it a 4/3 as many have done in the area boosting the value dramatically. Rare two car garage. Possible \$250,000 in sweat equity here. Please see the best comp in the area in the link below. Adding square footage is the play here for the greatest ROI. Or, add a pool and air BNB this all day. Many other comes in

This just came across my desk. If you put \$30-40k into this you'll have a \$100k spread.

I'm going to do the virtual walk through on the townhouse. That will be better for the tenant.

Thu, Jul 9, 11:58 AM

Ok

Fri, Jul 10, 10:07 AM

The tenant is killing me!
I'm trying to schedule



iMessage



2:04

65

5GE



Mike Stewart - ALA >

Fri, Jul 10, 10:07 AM

The tenant is killing me!
I'm trying to schedule photos and he's not returning my calls or text now.

I'll have Victoria reach out to him now as well

Thanks

Victoria Just emailed him

Sat, Jul 11, 12:39 PM

Do you know how long that other townhouse was on the market before it went under contract?
The tenant is wanting to leave their lease early



iMessage



2:05

65

5GE



Mike Stewart - ALA >

Victoria Just emailed him

Sat, Jul 11, 12:39 PM

Do you know how long that other townhouse was on the market before it went under contract? The tenant is wanting to leave their lease early due to COVID and showings

\$585k - 5 days
\$499k - 160 days

499 was when?

It will sell a lot quicker without the tenant.
\$499k is currently



iMessage



2:05 ↗

65

5GE 🔋



Mike Stewart - ALA >

\$499k - 160 days

499 was when?

It will sell a lot quicker without the tenant. \$499k is currently pending.

How big is that one?

Hasn't closed yet. I'll call the agent to get details.

Both are the 1,957sqft model

Fuck that. Must be stripped down



iMessage



2:05 ↗

65

5GE 🔋



Mike Stewart - ALA >



Shared Listings
flexmls.com

Here's the two

Must be by pinnacle
peak or Miller for that
cheap

Mon, Jul 13, 9:24 AM

I have a great off market house for your daughter in north Scottsdale! I don't have any pictures. It's a little dated but certainly livable. With 20-25k it's probably worth \$425k to \$450k. They're asking \$365k. It



iMessage



2:05 ↗

65

5G E



Mike Stewart - ALA >

don't have any pictures. It's a little dated but certainly livable. With 20-25k it's probably worth \$425k to \$450k. They're asking \$365k. It could be a decent flip but the owner wants an end user.

8832 E Friess Dr
Scottsdale, AZ 85260
90th St & Thunderbird

3/2 - 1,369sqft w/pool.

Mon, Jul 20, 1:33 PM

I met with my inspector friend on Saturday. He gave me some ideas.

Ok will call later



iMessage



2:05 ↗

65



Mike Stewart - ALA >

I met with my inspector friend on Saturday. He gave me some ideas.

Ok will call later

Tue, Jul 21, 11:37 AM

I'll call you back in 5-10 mins

No worries

Tue, Jul 28, 11:02 AM

Are you at the house? I might head over after my meeting

Wed, Jul 29, 11:40 AM

Jan Crane - Moon



iMessage



2:05 ↗

65

5GE 🔋



Mike Stewart - ALA >

might head over after my meeting

Wed, Jul 29, 11:40 AM

Jon Crone - Moon... >



Did you already pay for the landscaping? I forgot Casey's best friend is a manager at Moon Valley Nurseries. I talked to him yesterday and he said he can hook you up with investor rates on landscaping.

Ryan Strand - Roofer >



This is my roofer friend as well. Tell you got his info from Joe and he'll



iMessage



2:06 ↗

65

5G



Mike Stewart - ALA >

This is my roofer friend as well. Tell you got his info from Joe and he'll hook you up.

Yes I did

Damn

Thx

No problem. Maybe on the next one. I'm going to email you a few properties today. I'm just running numbers.

Still need plants for back yard

I already told him you may have already bought and paid for the front so



iMessage



2:06 ↗

65

5GE 🔋



Mike Stewart - ALA >

Still need plants for back yard

I already told him you may have already bought and paid for the front so no worries on that. See if he can beat the other guys on the backyard.

And I went to moon valley

Fri, Jul 31, 10:54 AM

6pm walkthrough today?

Yup

Fri, Jul 31, 6:45 PM

Gate code [REDACTED]



iMessage



2:06 ↖

65

5GE 🔋



Mike Stewart - ALA >

Fri, Jul 31, 6:45 PM

Gate code [REDACTED]

Fri, Aug 7, 10:10 AM

Have new keys if you want to drop by

Ok. I'm in gilbert til about 2-3pm. Let me see if Michael can stop by

If not we'll stop at townhouse and put in lock box about 3:30-4

Mon, Aug 24, 8:36 AM

Got no text from you Friday

I sent it in the group text



iMessage



2:06 ↗

65

5GE 🔋



Mike Stewart - ALA >

Mon, Aug 24, 8:36 AM

Got no text from you
Friday

I sent it in the group text.

Thx!!

Stucco guy never
showed. Waited until
4:30

Friday 7:57 AM

Bill - [redacted]

Pool guy



Message



Q W E R T Y U I O P

A S D F G H J K L

Ok



iMessage



2:07

65

5GE



Mike Stewart - ALA >



Ok

Hmm didn't come through

Angel just answered

Coming by today

Awesome! I've worked with him before. He does good work but he can be flaky at times so don't pay him all upfront.

Delivered

Ok



iMessage



2:35 ↗

65

5G ⚡



3 People >

iMessage

Tue, Aug 4, 12:05 PM

Hey Everyone!
I added Mike to the group text. He's heading up to 7349 E Casitas Del Rio to change the garage code.

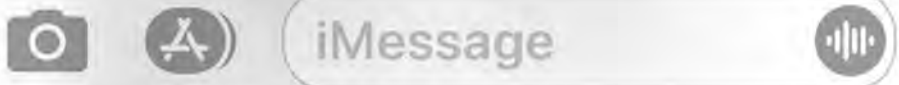
Mike Stewart - ALA



Tue, Aug 4, 1:07 PM

Michael R O'Malley

Hey guys pictures are being taken as we speak.
👉
New garage code is [REDACTED] (down/up) button



2:35

65

5G



3 People >

New garage code is
[REDACTED] (down/up) button



M

Mike Stewart - ALA

M

Thx

Michael R O'Malley

M

Of course 👍



iMessage



2:35 ↗

65

5GE 🔋



3 People >



Thx

Michael R O'Malley



Of course 👍

Wed, Aug 5, 6:03 PM

Michael R O'Malley



Hey Mike, we're having the digital staging finalized and wanted to check in. Have you been able to come and do the touch up work to the property?

Victoria



We're doing it Saturday 👍

Michael R O'Malley



Okay sounds good



iMessage



2:35 ↗

65

5G



3 People >

Victoria



We're doing it Saturday

Michael R O'Malley



Okay sounds good

Fri, Aug 7, 4:10 PM

Mike Stewart - ALA



New key is in lock box

Seriously? So gay



Lol

Michael R O'Malley



Wed, Aug 12, 12:14 PM

Michael R O'Malley



iMessage



2:36

65

5GE



3 People >

Wed, Aug 12, 12:14 PM

Michael R O'Malley

Hey Mike, here's the website to get all the info you requested for Sheridan.

City of Scottsdale - Property Information Request

eservices.scottsdaleaz.gov



M

If you put the address into the address search bar the options appear to request specific information.

Would you like me to request the docs you need?

M



iMessage



2:36 ↗

65

5G 🔋



3 People >

Wed, Aug 12, 1:28 PM

Mike Stewart - ALA

M Yes please

M Sorry for delay, hauling doors and windows today

Michael R O'Malley

M 👉 On my way to an inspection. I'll take care of it when I get back.

Mike Stewart - ALA

M Thx Bro

Mon, Aug 17, 8:20 AM

Mike Stewart - ALA

M Good morning guys. Anything on the townhouse?



iMessage



2:36 ↗

65

5G



3 People >

Mike Stewart - ALA

Good morning guys.
Anything on the
townhouse?



Drywall, windows and
doors go in this week in
Sheridan. Roof complete
this week too. Have
flooring samples to view
as well



We had a few showings
this weekend. We'll
follow up with the agents
today to see how they
went.

Mon, Aug 17, 11:55 AM

Victoria



iMessage



2:37 ↖

65

5G 🔋



3 People >

Mon, Aug 17, 11:55 AM

Victoria



Wed, Aug 19, 7:50 PM



**8643 E Bonnie Rose AVE,
Scottsdale, AZ 85250**

flexmls.com

The guy we bought
Sheridan from is under
contract for \$650k on
this house he remodeled



iMessage



2:37 ↗

65

5G ⚡



3 People >

contract for \$650K on this house he remodeled. I walked it after completion and it was average at best.

Fri, Aug 21, 6:48 AM

Mike Stewart - ALA

M Jo can you get me the cool deck guys Arun was talking about please?

Sure

Mike Stewart - ALA

Thx!!

M Stucco guy never showed. Waited until 4:30

Fri, Aug 21, 7:57 AM



iMessage



2:37 ↖

65

5G



3 People >

average at best.

Fri, Aug 21, 6:48 AM

Mike Stewart - ALA

Jo can you get me the cool deck guys Arun was talking about please?

M

Sure

Mike Stewart - ALA

Thx!!

Stucco guy never showed. Waited until 4:30

M

Fri, Aug 21, 7:57 AM

Bill -

Pool guy



iMessage

