EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SCOTT SIDELL,	:	3:08CV710 (VLB)
Plaintiff,	:	
v.	:	
STRUCTURED SETTLEMENT INVESTMENTS, LP, PLAINTIFF FUNDING HOLDING, INC. (D/B/A "LAWCASH"), DENNIS SHIELDS, HARVEY HIRSCHFELD, RICHARD PALMA, and SCOTT YUCHT,	:	
Defendants.	:	July 31, 2008

MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S MOTION TO DISQUALIFY COUNSEL

Defendants Structured Settlement Investments, LP ("SSI"), Plaintiff Funding Holding, Inc., Dennis Shields, Harvey Hirschfeld, Richard Palma and Scott Yucht respectfully submit this memorandum of law in opposition to plaintiff's motion for disqualification.

Plaintiff Scott Sidell's motion should be denied for the following five reasons:

First, this issue is already pending in arbitration, before a JAMS arbitrator in New York City, who has already presided over extensive proceedings in the nine months since the arbitration commenced in October 2007. For example, recently, in the arbitrator's pre-hearing order #8, the arbitrator set a briefing schedule on a motion that is identical to the instant motion. The instant motion is duplicative, and subsumed in the arbitration,

ORAL ARGUMENT REQUESTED

and this entire case should be sent to arbitration, for the reasons set forth in defendants' motion to compel arbitration, filed on July 23, 2008.

Second, Sidell's motion fails for a total lack of proof. It is based almost entirely on unverified allegations in a complaint, supplanted by unsubstantiated, erroneous, hyperbolic accusations by plaintiff's counsel, which counsel are new to the case and apparently unfamiliar with the facts of what has transpired in the arbitration to date.

Third, the unsworn allegations Sidell relies upon are insupportable. Sidell himself should know that they have been the subject of several lengthy telephonic hearings with the arbitrator, and that in those hearings, they have been disproven.

Fourth, there is no chance of a "tainted" trial – both because there will be no trial (there should be only an arbitration) and because the conduct of which Sidell complains was both harmless and justified under the circumstances.

Fifth, in the arbitration, Sidell's counsel intimated that they have made this motion for tactical reasons.

Defendants respectfully request that the Court (1) send this motion to the Arbitrator for decision, along with the rest of this case; or alternatively, (2) deny this motion and stay the case; or (3) stay this motion and this case pending resolution of the same issues in the arbitration.

FACTS

On August 24, 2007, Scott Sidell was terminated by SSI for Cause. In the termination letter sent to him that same day, SSI made demand upon Sidell to repay $450,000 that he had received as an advance, under a contract that expressly required him

to repay it if he was terminated prior to September 2007, which he was. (Exhibit A to the Declaration of John Crossman, filed herewith, is a copy of the termination letter). Shortly after that, the company sent Sidell a series of letters demanding, among other things, that he return company property, a laptop computer and a blackberry. (Crossman Decl. at ¶ 6).

On October 12, 2007, after learning that Sidell had taken a copy of the company's database (discussed below), SSI sent Sidell a cease and desist demand letter. (Exh. B to Crossman Decl.). SSI gave Sidell two business days from receipt, until October 18, 2007, to comply. Sidell had to have known that if he failed to comply, that SSI would name him as a respondent in an arbitration. Arbitration was mandated by Sidell's employment agreement for all disputes relating to Sidell's employment. (Crossman Decl. at ¶ 6).

Sidell was not content to wait to be named as a respondent. The day of the deadline for compliance with that demand, Sidell failed to comply, and instead preemptively commenced an Arbitration in New York City under the administration of JAMS. (Crossman Decl. at ¶ 7).

Not only did Sidell jump-the-gun by filing an arbitration, he also chose to name a host of parties as respondents, even though they were not signatories to Sidell's arbitration agreement. All of those parties, which comprise substantially the same parties as here, answered, and SSI filed a counterclaim against Sidell, the same claim it would have filed as "claimant" had Sidell not rushed to JAMS first. (Crossman Decl. at ¶ 8).

Between the time of Sidell's termination, and the filing of SSI's counterclaim in the Arbitration, several things happened that are touched upon, albeit sometimes incompletely or erroneously, in the instant motion to disqualify. (Crossman Decl. at ¶ 9).

First, immediately after Sidell was fired, he returned -- without authorization -- to the office of SSI, and there he accessed one of SSI's corporate computers. The particular computer was not within Sidell's former workspace, and had not been assigned to him. Having been terminated, Sidell was not even authorized to be in the offices, much less using a company computer. Sidell nevertheless proceeded to enter the office, and to use that computer, and an email access program that Sidell appears to have previously installed on that computer contrary to company policy. What did he do with that computer and that program? He proceeded to steal extensive amounts of valuable, confidential data belonging to his employer, including customer lists, files, and the like. These takings are detailed in the affidavit of Rich Palma, attached to the Crossman Decl. as Exhibit C (at ¶¶ 35-36), which was filed on June 13, 2008 in the PJR action, *Scott Sidell v. Structured Settlement Investments, LP and Plaintiff Funding Holding, Inc.*, Civil Action No. 3:08 CV 717 (JBA). (Crossman Decl. at ¶ 10).

Second, an agent of SSI discovered and observed Sidell *in flagrante delecto*, while he was trespassing in the office and in the act of using this unauthorized program to illegally send to his personal email account a series of emails full of stolen data. Soon after being discovered, without explaining himself or commenting to SSI's agent, Sidell left the premises, never to return. (Crossman Decl. at ¶ 11).

Third, the SSI agent who observed Sidell in the act immediately contacted Scott Yucht, who is charged with maintaining the SSI computer systems. Yucht regularly

employs a remote access program on all SSI computers, and this practice is well-known to all employees, and was known to Sidell. Employing the standard remote-access program, Yucht could apparently view on the computer in question exactly what it was that Sidell had been doing. He apparently could see right into Sidell's Yahoo email account because the program that Sidell had installed on the computer provided a "window" to see straight into that account. Yucht looked, and quickly discovered the massive data theft. (Crossman Decl. at ¶ 12).

Over the next few days, Yucht remotely accessed that computer to gather up the evidence in order to be able to determine the extent of the damage, to be in position to seek appropriate remedies, and perhaps to prevent some amount of further harm. (Crossman Decl. at ¶ 13).

At the time that Yucht was engaged in this remote access of the computer and the Yahoo account, neither Mr. Crossman nor anyone at ZGB had communicated with Yucht in any fashion. Crossman had never met Yucht, and indeed never spoke to him until after he had finished his last access of the Yahoo account. No one at ZGB was consulted or gave any instructions concerning Yucht's access to the Yahoo account. (Crossman Decl. at ¶ 14).

Yucht acted on his own, consistent with his corporate responsibility, in a simple and straightforward attempt to assess the extent of damage that had been done to the corporate computer systems that he is charged with safeguarding. (Crossman Decl. at ¶ 15).

Subsequently, Yucht forwarded a collection of some emails to his superiors, and eventually that collection was delivered to ZGB. (Crossman Decl. at ¶ 16).

At the time ZGB received the emails, ZGB was not aware that Yucht had, allegedly, looked at the account on more than one day. At the time ZGB received the emails, ZGB was under the impression that all of the emails in question concerned communications of Sidell made on the day of his termination, or before that day. Months later, after the emails were produced to Sidell's then-attorneys (Mr. Corenthal and Mr. Rabin, but not anyone at the Hurwitz Sagarin firm, which had not yet been retained), at a hearing before JAMS Arbitrator Jeanne Miller, Sidell's then-attorneys asserted for the first time that some of the emails were prepared by Sidell after he was terminated, on a subsequent day. As Arbitrator Miller will certainly recall, this came as a surprise to Crossman, who was on the call. (Crossman Decl. at ¶ 17).

In any case, when ZGB received the emails, ZGB discovered that some of them were between Mr. Rabin and Mr. Sidell. As soon as that was discovered, Crossman ordered that all emails between Mr. Sidell and an attorney be quarantined (the "Attorney Emails"), so that no one would review them, in order for ZGB to figure out what was the proper course of action. A copy of the label from the file indicating the quarantine status, is annexed to the Crossman Decl. as Exh. D. (Crossman Decl. at ¶ 18).

At that time, when ZGB had first discovered that some attorney communications were included, there was no reason to believe that any of the Attorney Emails were "misdirected" or sent in error. Even today, there is no reason to think that any were misdirected. Rather, at the time that ZGB was dealing with the Attorney Emails, it appeared that the emails had been sent, deliberately, from a company computer, in violation of company email policy, on a computer not even assigned to Sidell, and left open and viewable by anyone in the SSI offices. It was apparent that based upon these

facts, there was no reasonable expectation of privacy. The question as ZGB understood it therefore was: Do communications prepared and sent in this fashion constitute privileged communications, or are they non-privileged because, for example, they were sent under circumstances that evidence a deliberate waiver of privilege. (Crossman Decl. at ¶ 19).

The Attorney Emails were kept under quarantine while ZGB researched the answer to this question. (Crossman Decl. at ¶ 20).

ZGB determined that there was a corporate email policy, and that Sidell had a copy of it. The policy which is attached as Exhibit E, reads in pertinent part:

> **E-Mail and Internet Usage**
>
> Use of e-mail and the Internet is reserved solely for the conduct of Company business. It may not be used for personal business.

(Exh. E to Crosman Decl. at 17).

> **E-Mail and Internet Policy**
>
> Company equipment (such as the computer system, e-mail and access to the Internet) is to be used for business purposes only. To ensure that all employees are using Company e-mail and the Internet in a responsible manner, the following policies have been established:
>
> - Use of the Company's computer system (including e-mail and the Internet) is reserved solely for the conduct of Company business. It may not be used for personal business.
>
> - The e-mail system is Company property. All messages composed, sent, or received on this system are and remain the property of the Company. They are not the private property of any employee and may be disclosed within the Company without the permission of the employee who composed or received them.
>
> - The Company reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent over the e-mail and Internet systems for any purposes. By using the Company's e-mail and Internet systems, the employee recognizes the rights of the Company and consents to them.

...

- The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read it.

(Exhibit E to Crossman Decl. at 26-27). (Crossman Decl. at ¶ 21).

ZGB's pre-review research disclosed that where, as here, there is a corporate email policy like the one at SSI, an employee cannot claim that such emails are privileged. Before reviewing the emails, ZGB relied for this conclusion upon *Scott v. Beth Israel Medical Center, Inc.*, 847 N.Y.S.2d 436 (N.Y. Sup. Oct 2007); and *In Re Asia Global Crossing, Ltd.*, 322 B.R. 247 (2005). (Crossman Decl. at ¶ 22).

It is important to remember that at this point in time, and for some months after, ZGB was unaware of there being any emails in the Attorney Email collection that were prepared after Sidell's last visit to the office. At the time, ZGB did not know that it was even possible for there to be emails from after that date in the collection. Because ZGB had no knowledge of such "post termination date" emails being included, ZGB in good faith did not consider or think to consider such an unexpected possibility. (Crossman Decl. at ¶ 23).

Having concluded that these communications were not "misdirected," ZGB was not required to follow any of the "inadvertent production" or "misdelivery" procedures relied upon by Sidell in his disqualification memorandum. ZGB was dealing with something entirely different: emails prepared under circumstances where an employee had no right to claim a privilege. (Crossman Decl. at ¶ 24).

Under such circumstances, ZGB's duty of zealous representation, in Mr. Crossman's judgment, required ZGB to review the Attorney Emails because they were

clearly nonprivileged under applicable law. They were fair game, just like any other communication not made privately. (Crossman Decl. at ¶ 25).

Having determined that cases recognize that there is no privilege under the circumstances present here, ZGB removed the quarantine and Crossman reviewed the Attorney Emails in the collection that were between Sidell and Rabin. To Crossman's present recollection, there were no emails with Mr. Corenthal. (Crossman has not re-reviewed the emails since they have been returned to Sidell's counsel months ago, although they are attached to papers presently filed ***by Sidell*** in the arbitration.) Although Crossman has no knowledge of whether Mr. Sidell was communicating with Mr. Corenthal by email at the time in question, Mr. Crossman does not believe that any emails from him were included in the collection ZGB received. Mr. Crossman is confident that he never heard Mr. Corenthal's name until months later, when Mr. Rabin's firm was getting ready to withdraw from the representation of Sidell, and he was informed by Rabin that Corenthal's firm was about to take over. (Crossman Decl. at ¶ 26).

Mr. Crossman does not recall anything of interest (or indeed anything at all) in the collection of Attorney Emails, except for the discovery that Sidell had secretly tape-recorded his termination meeting. Crossman is confident that he learned nothing of any importance in the case other than of the existence of this tape, which had been concealed from our client. (Crossman Decl. at ¶ 27).

On January 18, 2008, as part of the general production of requested documents, the Attorney Emails were then produced to Sidell's attorney, along with other emails, not sent to an attorney, which were the emails in which, immediately after his termination,

Sidell stole massive amounts of highly valuable company data. (Crossman Decl. at ¶ 28). As has already been made clear in the arbitration, counsel did not "redact" anything from the emails.

ZGB had sought to produce these materials in advance of January 18, but ZGB could not do so because Sidell's counsel was slow to agree to a protective order. In fact, after weeks of discussions, Sidell eventually refused to agree to the proposed confidentiality agreement, so that the arbitrator herself had to enter a protective order, which she did on January 18. The document production followed immediately.

It is important to understand that as part of this document production, ZGB was producing copies of the same emails in which Sidell illegally sent himself our client's customer lists, and other things, and it was critical that ZGB not give them these sensitive documents "in the clear" without obligation of confidentiality. (Crossman Decl. at ¶ 29).

After the emails were produced, Sidell's then-attorney raised concerns about the Attorney Emails with the arbitrator. In February 2008, at a conference call, Mr. Crossman learned for the first time of the existence of post-termination-date emails among the Attorney Emails. As soon as Crossman discovered the existence of such emails in the mix, he immediately agreed to return ***all*** copies of those emails to Sidell's attorney, and to delete any electronic copies so that there would be no danger of access to them. This ZGB promptly did. (Crossman Decl. at ¶ 30).

That should have been the end of the matter, but Sidell has proven to be intent on making the largest possible issue about this. He has, accordingly, raised it with the arbitrator, and the entire issue is the subject of pending cross-motions for sanctions in the Arbitration. SSI seeks to Sanction Sidell for violating the protective order by

intentionally using the emails and other discovery materials outside of the Arbitration, and Sidell seeks to sanction SSI and the ZGB law firm, for the identical things raised in this motion. A copy of Sidell's motion in the arbitration is attached as to the Crossman Declaration as Exh. F. (Crossman Decl. at ¶ 31).

This duplication of effort points out a fundamental problem with this motion: With all due respect, this motion should be decided, if at all, by Arbitrator Miller, and not by this Court. (Crossman Decl. at ¶ 33). The instant dispute is among the disputes that are subject to mandatory arbitration -- on July 23 defendants filed a motion to compel arbitration of this action, and the instant motion to disqualify ought not be decided by this Court at all, but instead should be decided (if not first withdrawn) by Arbitrator Miller, who is already in possession of the same motion in the arbitration. The conduct complained of arises 100% from the conduct of the Arbitration, and much of that conduct was personally and directly supervised by Arbitrator Miller. Not only that, the filing of this action was itself a violation of the Arbitrator's Protective Order. Additionally, the entire subject of this action concerns Sidell's employment and termination and his illegal conduct immediately following his termination, all of which is covered by Sidell's employment agreement and its mandatory arbitration clause. (Crossman Decl. at ¶ 34).

LEGAL ARGUMENT

I.

THE ARBITRATOR HAS JURISDICTION OVER THIS MATTER

For the reasons set forth in our motion to compel arbitration, filed on July 23, 2008, this motion should be transferred to the pending arbitration under the administration of JAMS arbitration, JAMS case number 1425000992, Arbitrator Jeanne C. Miller, presiding.

II.

SIDELL HAS FAILED TO MEET THE HIGH STANDARD OF PROOF REQUIRED TO DISQUALIFY OPPOSING COUNSEL

The moving party bears "the heavy burden of proving facts required for disqualification." *Evans v. Artek Sys. Corp.*, 715 F.2d 788, 794 (2d Cir.1983). The burden lies on the party arguing for disqualification "to demonstrate that continued representation by the challenged attorney would result in serious prejudice." *Shabbir v. Pakistan Int'l Airlines*, 443 F.Supp.2d 299, 305 (E.D.N.Y. 2005). "[A] district court must consider the factual record underlying such a motion in detail to determine whether the party seeking disqualification has sustained the high standard of proof necessary to disqualify opposing counsel." *Papyrus Technology Corp.*, *supra*, 325 F.Supp.2d at 276. "Vague and unsupported allegations are not sufficient to meet this standard." *Cohen v. Oasin*, 844 F.Supp. 1065, 1067 (E.D.Pa.1994); *accord Shabbir v. Pakistan Int'l Airlines*, 443 F.Supp.2d 299, 312 (E.D.N.Y. 2005)("Thus, at this point, in the absence of any evidence supporting plaintiff's claims of misconduct, apart from plaintiff's unsworn

statements in these papers, the Court finds these allegations of impropriety to be an insufficient basis on which to order counsel's disqualification.").

Sidell's motion is premised upon sheer speculation. In his statement of facts, Sidell cites to unverified allegations in his Complaint, most of which Sidell alleges are based "upon information and belief." (Complaint at ¶¶ 22, 29, 30, 31, 32, 33, 35, 36, 37, 38, 42). Then, Sidell waters down his allegations even further. He states they are based merely upon what "appears" (plaintiff's memorandum of law ("Mem.") at 2, 10, 17), what "apparently" happened (p. 2), what "possibly" happened (p. 18), his beliefs" (p. 17), and what he thinks there is "reason to believe" (p. 17).

The ***only*** purported evidence submitted by Sidell is contained in the declaration that Sidell culled from the file in the JAMS arbitration. That is the affidavit by Richard Corenthal, Esq., Sidell's second in a series of three attorneys (and law firms) in the arbitration. Sidell filed this same affidavit in connection with the cross-motions for sanctions pending in arbitration. (Exh. A to Mem.). It contains seven paragraphs. The first is introductory. The second and fourth, which are based upon "information and belief," merely speculate about Sidell's retention of his first lawyer, Rabin, and what Rabin did. The third paragraph is inconsequential, concerning the absence of communications between Corenthal and defense counsel before Corenthal became involved in the arbitration. The fifth and sixth paragraphs contain improper attorney argument and hearsay (*e.g.*, "our review of Respondents' documents production indicated that Respondents accessed and opened Dr. Sidell's private emails from his personal email account without authorization). Furthermore, they contain hearsay statements about the contents of emails which are not even before this Court. (*i.e.*, "These attorney-client

communications concerned Dr. Sidell's claims, defenses, retention of counsel and advice by Dr. Sidell's counsel.").[1] Moreover, it refers to documents produced in arbitration subject to the restrictions contained in the arbitrator's protective order. Sidell's disclosure here constitutes a further violation of that protective order.[2]

Stripped to its core, the Corenthal affidavit presents a single assertion: that defense counsel did not notify Corenthal that his clients' possessed the emails until they produced them to Corenthal in January 2008. (Exh. A to Mem., at ¶ 7). This course of action was a violation of nothing.

As Sidell recognizes, this is not a case in which an email was "misdirected." As a result, the opinion cited at p. 15 of Sidell's brief does not apply. Thus, the simple question is whether or not ZGB would be expected to conclude that any privilege could attach to communications where, as ZGB understood the facts, Sidell – himself then a trespasser – had created the emails and left them available for anyone to see on an unassigned company computer in the workplace, as part of a massive data theft accomplished at the same time. As set forth in the Declaration of John Crossman, once ZGB learned that there were attorney emails included in the mix, ZGB prudently

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[1] At the arbitrator's direction, all of the Attorney Emails have been returned to Sidell's counsel. However, by attaching the emails to his arbitration filings, Sidell injected the emails right back into the arbitration proceeding, so that ***any*** lawyer representing the respondents in the arbitration proceeding will have to see them.

[2] On June 13, 2008, the arbitrator issued an order authorizing respondents to file a motion for sanctions for Sidell's violation of the arbitrator's protective order. Sidell then warned that if respondents were going to seek sanctions, he would in turn seek sanctions and to disqualify counsel – thereby demonstrating that this motion is being made for tactical reasons. (A copy of the Hurwitz Sagarin firm's June 19, 2008 letter to Arbitrator Miller is attached to the Crossman Dec. as Exh. G). A month later, on July 15, Sidell sought to employ "the best defense is a good offense" strategy by filing the present motion.

quarantined the documents pending research and analysis about whether Sidell had any expectation of privacy in emails visible to anyone in the workplace who sat at the computer. The emails were not reviewed until counsel was satisfied that Sidell had no expectation of privacy, given the company's policy and the fact that Sidell knew that company computers were monitored. (Crossman Decl. at ¶¶ 12, 21, 22). Consistent with applicable law, counsel reasonably concluded they were not privileged, and produced them along with the other documents, including the documents showing that Sidell had stolen confidential company information through use of his Yahoo email account.

Our research has uncovered no cases in which an attorney was disqualified based on unverified allegations in a complaint, or unsupported charges in a brief written by a lawyer who was not even involved in the matters under discussion. Based upon the present record, it would be reversible, immediately appealable, error for this Court to disqualify ZGB.

III.

THERE IS NO ETHICAL VIOLATION THAT THREATENS TO TAINT TRIAL

A. There Is A High Burden, In Part Because These Motions Are Tactical

The Second Circuit has repeatedly held that disqualification motions are disfavored and require a high standard of proof.

> [W]e have also noted that 'there is a particularly trenchant reason for requiring a high standard of proof on the part of one who seeks to disqualify his former counsel, for in disqualification matters we must be solicitous of a client's right freely to choose his counsel - a right which of course must be balanced against the need to maintain the highest standards of the profession.'

Evans, supra, 715 F.2d at 791-792, citing *Government of India v. Cook Industries, Inc.*, 569 F.2d 737, 739 (2d Cir.1978).

Courts in the Second Circuit have frequently observed that motions to disqualify are increasingly filed for tactical reasons. *Rodriguez v City of New Haven*, 214 F.R.D. 66, 68 (D. Conn. 2003)("The Second Circuit, however, disfavors motions to disqualify because of the potentially adverse effect on a client's right to engage counsel of his or her choosing, and because such motions are often made for tactical reasons."); *Board of Educ. v. Nyquist*, 590 F.2d 1241, 1246 (2d Cir. 1979)("This reluctance [to disqualify] probably derives from the fact that disqualification has an immediate adverse effect on the client by separating him from counsel of his choice, and that disqualification motions are often interposed for tactical reasons.").

B. There Is Evidence That This Motion Is Tactical

There is evidence that the instant motion was indeed filed for tactical reasons. First, Sidell's present counsel as much as said so. Hurwitz Sagarin letter to Arbitrator dated June 19, 2008, Exh. G to Crossman Decl., at 1 ("This letter follows our telephone status conference of Friday, June 13, 2008 in which [SSI] requested, and you granted, permission to file a motion for sanctions...[SSI's] intent to file for sanctions leaves us no alternative. Now that the issue of sanctions has been raised and will be briefed, we also request permission to file sanctions [sic] and propose doing so pursuant to the same schedule set forth in Order #7."). Second, since filing this motion, Sidell's counsel has repeatedly represented to this Court that there is no particular need for Mr. Crossman or the ZGB firm to participate in this case because ZGB has local counsel, Mr. Peloso of Robinson Cole. (Sidell's Motion for Adoption of Rule 26(f) Report at ¶¶ 5, 6; Sidell's

Objection to Defendants' Motion to Compel Rule 26(f) Conference at ¶¶ 5, 6). However, as Sidell's counsel knows, Robinson Cole has had no involvement in the eight-month course of the arbitration, knows nothing of the events detailed in the complaint in this action, and has been recently retained solely to reduce the inconvenience of Sidell having suddenly opened a second "front" to this litigation in Connecticut. It is, accordingly, apparent that it is quite intentionally Sidell's purpose to try to strip the defendants of counsel who knows the extensive history and record of this dispute, and replace them with someone who is even less familiar with the facts than Sidell's newest attorneys. Given that Sidell is the true defendant in this dispute, and that he owes hundreds of thousands of dollars that he refuses to repay, and that he was caught red-handed stealing valuable information, it is small wonder that he might try to delay, complicate and hamstring the case of the defendants. But this is precisely the kind of tactical ploy that the Second Circuit has warned against. It should not be allowed to occur here.

C. There Was No Ethical Violation

"[T]he Second Circuit has directed that courts faced with disqualification motions take a 'restrained approach that focuses primarily on preserving the integrity of the trial process.'" *Papyrus Technology Corp. v. New York Stock Exchange, Inc.*, 325 F.Supp.2d 270, 276 (S.D.N.Y. 2004), citing *Armstrong v. McAlpin*, 625 F.2d 433, 444 (2d Cir. 1980), *vacated on other grounds and remanded,* 449 U.S. 1106, 101 S.Ct. 911, 66 L.Ed.2d 835 (1981).

It is well-settled that disqualification cannot be ordered unless an actual ethical violation threatens to taint the trial. *Vincent v. Essent Healthcare of Connecticut*, 465 F.Supp. 2d 142, 145 (D. Conn. 2006)("Recognizing the serious impact of attorney

disqualification on the client's right to select counsel of his choice, we have indicated that such relief should ordinarily be granted only when a violation of the Canons of the Code of Professional Responsibility poses a significant risk of trial taint.")(citations omitted).

Where, as here, there is a corporate email policy like the one at SSI, an employee cannot claim that such emails are privileged. *Scott v. Beth Israel Medical Center, Inc.* 847 N.Y.S.2d 436 (N.Y. Sup. Oct 2007); *In Re Asia Global Crossing, Ltd.*, 322 B.R. 247 (2005). *In re Asia Global Crossing, Ltd.*, 322 B.R. 247 (2005) addressed the issue of whether an employee had waived a privilege by sending emails to his attorney over the company's system. The court outlined a test for employees' expectation of privacy in computer files and email: (1) whether the company has an email policy banning personal use, (2) whether the company monitors employees' computer use, (3) whether third parties have right of access, and (4) whether the company notified the employee or the employee was aware of the use and monitoring policies. The court did not reach a ruling, finding that it needed development of the record on whether the company had a policy against personal use of the email system or had a policy of monitoring employee email. In such instances, there would be no privilege.

Under the *Asia Global Crossing* guidelines, the court found there to be no privilege in *Scott v. Beth Israel Medical Center, Inc.* There, defense counsel discovered they were in possession of email between plaintiff and his counsel. Defense counsel contended that any privilege was waived because the plaintiff sent the emails over defendants' email system. The Court agreed, and held that the plaintiff had waived the privilege. The Court emphasized that the employer had an email policy, of which the plaintiff had actual or constructive notice. The Court concluded that the privilege was

waived because, among other things, the corporate email policy bans personal use, the company monitors employee's use of the computer and email, third parties have a right of access to the computer or emails, and the company notifies the employee, or the employee is aware, of the use and monitoring policies.

Even in *Galison v. Greenberg*, 2004 WL 2848123 (New York 2004) -- the only case on this issue that Sidell attached to his brief -- the New York Supreme Court refused to disqualify counsel and denied the sanctions motion. See *Galison v. Greenberg*, Exhibit D to Sidell's brief, at p. 3 (copy attached). Moreover, unlike *Gallison*, the present case is not an instance of a "misdirected" communication.

Here, as in *Scott*, Sidell had no reasonable expectation of privacy. The only illegal conduct was by Sidell, who used his Yahoo account to steal the company's database.

It is no argument for Sidell to claim as grounds for disqualification that some emails were created after Sidell left SSI, because it is indisputable that ZGB did not even know that at the time of the actions, and the cases and ethical rules cited by Sidell all recognize that there is no ethical duty to do anything with a privileged communication until the recipient ***actually knows or should know*** that it is in possession of one. *Galison v. Greenberg, supra*, 2004 WL 2848123 at * 2 (citing ethics opinions). And the record in the arbitration is absolutely clear that as soon as the arguably privileged status of some of the attorney emails was known to ZGB, those emails were immediately returned to Sidell's counsel, and no copies were retained. Nothing more is required, and indeed, nothing more was even possible.

D. Defense Counsel Is Not A Necessary Witnesses

"There is a dual test for necessity. First, the proposed testimony must be relevant and material. Second, it must be unobtainable elsewhere. Testimony may be relevant and even highly useful but still not strictly necessary." *Desarbo & Reichert, P.C. v. Cardow*, 16 Conn. L. Rptr. 386, 1996 WL 166431 at * 1 (1996)(copy attached)(internal citations omitted).

It is difficult to discern from Sidell's motion how ZGB testimony could be relevant or material. Sidell states that the expected testimony concerns "counsel's access to and use of Sidell's emails." (Mem. at 11). Sidell says testimony can include how the emails were acquired, when attorneys knew emails were accessed, whether attorneys were involved in accessing them, and what attorneys did with them. (Mem. at 10). However, as Sidell knows, this has all been subject of pre-hearing discovery and orders in the JAMS arbitration. Whether because he is unhappy with the way the JAMS arbitration is unfolding, or because it serves his interest to foment delay, Sidell is forum shopping by trying again here. Moreover, all of this information is addressed in the accompanying Crossman Declaration. Sidell claims -- without any explanation whatsoever -- that this testimony "directly affects the damages to which Sidell may be entitled". (Mem. at 12). This statement is devoid of content; it explains nothing. As for Sidell's assertion that it "may implicate the attorneys as defendants" (Mem. at 12), the apparent desire to mount a fishing expedition – or at least to threaten to do so – is not a valid basis for discovery or for the extreme remedy of disqualification.

Even if the sought testimony was relevant and material -- and it is not – such testimony is most certainly available elsewhere. In fact, competent testimony on the

issues raised could only be obtained elsewhere. The Crossman Declaration demonstrates that there was no first-hand attorney involvement in any of the acts about which Sidell complains. (Crossman Decl. at ¶¶ 14, 17). *Desarbo & Reichert, supra*, 1996 WL 166431 at * 2 (1996)(denying motion where moving party "has not provided with any proof..."); *D'Angelo v. Schiraldi*, 2003 WL 23177472 (Conn. Super. 2003)(copy attached)("[f]rom a review of the facts presented in this case the court finds that plaintiff does not meet the second prong of the test for necessity, inasmuch as the testimony which the plaintiff is seeking is obtainable from someone other than [the] attorney.").

Under theses circumstances, the attorneys are not necessary witnesses. From discovery in the arbitration, Sidell already knows that the attorneys have no first hand knowledge.

E. Defendants' Choice Of Counsel Should Not Be Disturbed

It is hornbook law that a party's choice of counsel will not lightly be disturbed. *Enzo Biochem, Inc. v. Applera Corp.*, 468 F.Supp. 2d 359, 364 (D. Conn. 2007). A client should not be deprived from his chosen counsel where disqualification would cause substantial hardship. In disqualification matters, courts "must be solicitous of a client's right freely to choose his counsel...mindful of the fact that a client whose attorney is disqualified may suffer loss of time and money in finding new counsel and may lose the benefit of its longtime counsel's specialized knowledge of its operations." *Matlis v. Probate Appeal*, 2004 WL 2896616, at * 1 (Conn. Super 2004)(copy attached)(internal citations omitted); *Whitney v. Capullo*, 1995 WL 459263 (Conn. Super 1995)(copy attached)(disqualification would cause a substantial hardship where attorneys had relationship with client and it was "entirely probable" that attorney's testimony would be

unnecessarily duplicative). ZGB has a long-standing relationship with this client; ZGB has been involved with the Sidell matter since Sidell's termination for cause, and ZGB has defended respondents and prosecuted the counterclaims in the arbitration from the outset.

CONCLUSION

For all the foregoing reasons, defendants respectfully request that the Court (1) send this motion to the Arbitrator for decision, along with the rest of this case; or alternatively, (2) deny this motion; or (3) stay it pending resolution of the same issue before the Arbitrator.

Respectfully submitted,

DEFENDANTS

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CERTIFICATE OF SERVICE

I hereby certify that, on July 31, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access the foregoing through the Court's system.

/s/ John K. Crossman
John K. Crossman (ct25518)

EXHIBIT 1

5 Misc.3d 1025(A), 799 N.Y.S.2d 160 (Table), 2004 WL 2848123 (N.Y.Sup.), 2004 N.Y. Slip Op. 51538(U)
Unreported Disposition
Motions, Pleadings and Filings

(The decision of the Court is referenced in a table in the New York Supplement.)

Supreme Court, New York County, New York.
William A. GALISON and Black Pearl Records, LLC, Plaintiffs,
v.
Jeffrey A. GREENBERG, Esq., Beldock Levine & Hoffman, LLP, Madeleine Peyroux and Rounder Records, Defendants.
No. 602478/04.
Nov. 8, 2004.

HERMAN CAHN, J.

***1** Defendant, Rounder Records Corp. moves for, among other things, a protective order, "suppressing" plaintiffs' counsel's use of e-mail inadvertently annexed to motion papers served by defendant's counsel on plaintiffs' counsel.

THE FACTS

On September 15, 2004, Rounders counsel, Stacy Grossman, Esq., moved to dismiss the amended complaint in this action. The motion papers included certain exhibits. Among the exhibits were nine pages of documents which were inadvertently added to the motion papers. Included therein was a two page e-mail dated July 23, 2004, which defendant's counsel asserts is protected by the attorney-client privilege.

On October 7, 2004, plaintiffs' counsel, Harvey Mars, served papers in opposition to the motion to dismiss, including a memorandum of law and an affidavit in opposition, of their counsel. While reading the plaintiffs' memorandum of law, defendant's counsel discovered, for the first time, that the nine pages of documents had inadvertently been attached to Exhibit A of her affirmation served in support of the motion to dismiss.

Mars was in possession of the e-mail from September 15 until October 7. Grossman asserts that Mars made reference to the e-mail in his opposition memorandum of law, and attached a copy of it to his affirmation as Exhibit C. In fact, that is how she realized that it had been inadvertently turned over to Mars.

With respect to the e-mail, Grossman affirms that its subject line read, "Re: Madeleine Peyroux/William Galison". The e-mail began, "Hi Mark", and its first paragraph allegedly indicated that a client was soliciting legal advice from her attorney. Grossman affirms that she did not intend to waive the attorney-client privilege, nor did Rounder authorize her to do so; the release of the e-mail was completely inadvertent.

The e-mail concerns correspondence between an employee of Rounder and Mark Fischer ("Fischer"), Rounder's outside counsel.[FN1] He has personally been involved with this action since its inception. Attorney John Virant, Rounder's President, and Marty Willard, Rounder's in-house counsel, were the other recipients of the e-mail.

FN1. Grossman alleges that in view of previous communications concerning this matter, Mars was aware of Fischer's status as Rounder's outside counsel.

On October 8, 2004, Grossman wrote a letter, addressing the unintended disclosure of the e-mail and had it hand-delivered to Mars. She also wrote a similar letter to all other counsel who appeared in this action, that same day. FN2 In her letter to Mars, Grossman explained, among other things, that the prior evening, she learned, for the first time, that nine pages of documents, including the two-page e-mail, had been accidentally attached to Exhibit A of her affirmation in support of the motion to dismiss; that such attachment was a clerical error, and that the e-mail was protected by the attorney-client privilege. She set forth arguments showing that the e-mail was a privileged communication, and that its contents clearly indicated that it was an attorney-client communication.

FN2. Grossman alleges that she wrote to Mars and co-defendant's counsel, less than 24 hours after discovering the inadvertent production of the e-mail.

Grossman demanded that Mars return the e-mail, along with all copies of the e-mail, to her, and that he withdraw those portions of plaintiffs' memorandum of law and his affirmation, which made reference to the e-mail.

***2** Mars responded by letter maintaining that because Grossman filed an affirmation, which contained the contested documents as an exhibit, it was not at all clear to him that their production was inadvertent. He also wrote that the documents bolstered his clients' position that the defendants intentionally and maliciously precluded them from marketing the recently released recording, "Got You on My Mind".

Mars further wrote that since the documents buttressed his clients' position, he would vigorously oppose any claim that Grossman did not waive the attorney-client privilege. He also asserted that because the documents had been released, his clients would be prejudiced, if they were excluded. As an "accommodation," he offered to provide Grossman with a copy of the e-mail from his file.

On October 13, 2004, Mars drafted a second letter to Grossman, taking what appeared to be a less rigid stance. He indicated that he would replace Exhibit C, the one that contained the contested e-mail, with an affirmation he intended to file in court.

Rounder now moves for a protective order, suppressing the e-mail.

DISCUSSION

Inadvertent disclosure of a document protected by the attorney-client privilege, will not constitute a waiver of the privilege. An intent to waive the privilege by disclosure of the document must be shown, in order to have a valid waiver. *Manufacturers and Traders Trust Co. v. Servotronics, Inc.*, 132 A.D.2d 392, 398 (1987).

Here, it is clear that the disclosure was inadvertent and unintentional. Upon finding that the e-mail had been turned over to plaintiffs' counsel, Grossman immediately took steps to demand its return. Her actions belie a claim of intentional waiver. Nothing submitted in opposition to the within motion, shows that the disclosure was intentional.

Granting the within motion would not prejudice the plaintiffs. Since the document should not have been produced in the first place, plaintiffs will not be worse off by not being able to use it.

Further, the document at issue is clearly protected by the attorney-client privilege. It is between a Rounder employee and Rounder's counsel, with copies being sent to the other Rounder personnel.

The court recognizes that granting the within motion will not place the parties in the position they were in before the disclosure-the genie can not be put back in the bottle. By preventing further use of the document, and requiring that all copies be returned to Rounder's counsel, the court can, at least, minimize the damage.

The court also notes that both the Association of the Bar of the City of New York, in an opinion of its Committee on Professional and Judicial Ethics, opinion number 2003-04, 2004 WL 837937, and the New York County Lawyers Association, in an opinion of its Committee on Professional Ethics, opinion number 730, 2002 WL 31962702, have considered the issue. Both conclude that when receiving a communication or e-mail which the lawyer knows or should reasonably know contains privileged material, the attorney is obligated to "promptly notify the sending attorney" thereof, to refrain from further review of the communication, and to return or destroy it if so requested. Counsel should be aware of their obligations in these circumstances, and promptly adhere to them, in order to avoid sanctions.

***3** Plaintiffs' counsel is directed to:

(1) Return all copies of the e-mail in his possession, to Grossman, and, of course, not make other or additional copies.

(2) To the extent that plaintiffs' counsel has disseminated copies of the e-mail, he shall serve a copy of this decision and order on all persons or firms to whom it was disseminated, together with a letter demanding immediate return of all copies of the e-mail for return to Grossman.

(3) Mars shall serve and file an affidavit of compliance with the above, within three days of service on his office of a copy of this decision.

(4) To the extent that any of the papers submitted in opposition to the motion to dismiss refer to, or quote from, the e-mail, the document(s) shall be redacted to remove all such references or quotes, or in the alternative, new documents may be submitted in place of the offending ones. This is to be done within one week of service of a copy of this decision and order.

All other counsel in this action who have received a copy of the e-mail shall comply with the above directions within the same time limits.

That branch of the motion seeking to disqualify plaintiffs' counsel, and for sanctions, is denied.

The foregoing constitutes the decision and order of the court.

N.Y.Sup.,2004.
Galison v. Greenberg
5 Misc.3d 1025(A), 799 N.Y.S.2d 160 (Table), 2004 WL 2848123 (N.Y.Sup.), 2004 N.Y. Slip Op. 51538(U)
Unreported Disposition

Motions, Pleadings and Filings (Back to top)

• 0602478/2004 (Docket) (Sep. 16, 2004)
END OF DOCUMENT

EXHIBIT 2

Not Reported in A.2d, 1996 WL 166431 (Conn.Super.), 16 Conn. L. Rptr. 386

Superior Court of Connecticut.
DESARBO & REICHERT, P.C.
v.
William CARDOW
No. CV 940360368.
March 22, 1996.

MEMORANDUM OF DECISION

FREEDMAN, Judge.

***1** On June 29, 1995, the plaintiff, DeSarbo & Reichert, P.C., filed a twocount amended complaint against the defendant, William Cardow. The plaintiff alleges breach of contract in both counts. The amended complaint contains the following facts.

The plaintiff is a professional corporation of attorneys licensed to practice law in Connecticut. On February 1, 1994, the defendant met with the plaintiff's attorneys and discussed having the plaintiff perform some estate planning for the defendant. The plaintiff alleges that the defendant verbally offered to hire the plaintiff and that the plaintiff accepted this offer in return for a fee of approximately $2,500. On March 7, 1994, the plaintiff completed all of the defendant's estate planning needs and mailed all of the necessary documents to the defendant. On March 25, 1994, the plaintiff provided the defendant with an invoice and bill for its services in the sum of $2,500. The defendant has, to this date, refused to pay the plaintiff for the above services.

On February 14, 1996, the defendant filed a motion to disqualify Attorney Robert Mercer-Falkoff from representing the plaintiff in the case. Falkoff is an attorney in the plaintiff's law firm. According to the defendant's motion, Falkoff is a material witness in the matter and therefore, cannot act as the plaintiff's advocate under the Rules of Professional Conduct. Furthermore, the defendant claims that the plaintiff, a professional corporation, is representing itself because Falkoff, who is a member of the firm, is representing the plaintiff. Thus, the defendant argues that since corporations cannot engage in the practice of law in Connecticut, the plaintiff's entire firm must be disqualified from representing itself. The defendant also claims that the court should disqualify Falkoff because a conflict of interest exists.

"The trial court has the authority to regulate the conduct of attorneys and has a duty to enforce the standards of conduct regarding attorneys." Bergeron v. Mackler, 225 Conn. 391, 397 (1993). "The party moving to disqualify opposing counsel bears the burden of proof." (Internal quotation marks omitted.) *Cooney & Bainer P.C. v. Milum,* Superior Court, judicial district of New Haven at Meriden, Docket No. 246558 (June 20, 1995) (Silbert, J., 14 Conn. L. Rptr. 426, 428).

I.

The defendant argues that Falkoff must be disqualified under Rule 3.7 because he is a material witness in the matter. "At issue in the case, therefore, is whether [Falkoff] himself is likely to be a necessary witness and, if so, whether he falls within any of the exceptions to the Rule." *Cooney & Bainer. P.C. v. Milum,* Superior Court, judicial district of New Haven at Meriden, Docket No. 246558 (June 20, 1995) (Silbert, J., 14 Conn. L. Rptr. 426, 427). "A finding of necessity takes into account such factors as the significance of the matters, weight of the testimony and availability of other

evidence." *Id.*, 428. "There is a dual test for necessity. First the proposed testimony must be relevant and material. Second, it must be unobtainable elsewhere." *Id.* "Testimony may be relevant and even highly useful but still not strictly necessary." *Id.*

***2** The defendant has not provided the court with any proof indicating that Falkoff worked directly for or on the defendant's file. The plaintiff indicates in its memorandum of law in opposition to the motion to disqualify that Falkoff merely provided draft documents to Attorney D. Richard DeSarbo and that DeSarbo dealt with the defendant and has direct knowledge of the services rendered to the defendant. The plaintiff also states that all communications with the defendant took place with DeSarbo only. Accordingly, all information pertaining to the value of the services rendered can be obtained through DeSarbo. Therefore, Falkoff's testimony is not necessary in this case because any information held by Falkoff can be obtained by other means. Since Falkoff's testimony in the case is not necessary, Rule 3.7 will not be violated if Falkoff represents the plaintiff.

The defendant also argues that the plaintiff's law firm should not be permitted to represent itself in this matter because the members of the firm will have to testify. The firm is not representing itself in this matter. Rather, Falkoff has individually filed an appearance for the firm. Accordingly, the court does not grant the defendant's motion to disqualify based on a violation of Rule 3.7 because Falkoff is not a material witness and because Falkoff is representing the plaintiff in his individual capacity. Falkoff, however, has not filed his juris number on the appearance form. The court, therefore, directs Falkoff to place his own juris number on any further matters filed with the court.

II.

The defendant also argues that Falkoff should be disqualified because he is a member of the law firm and this firm is a professional corporation. According to the defendants,corporations in Connecticut may not enter pro se appearances. Therefore, the defendant indicates that Falkoff and the plaintiff have violated Practice Book § 64 and the rule regarding the prohibition on corporations entering pro se appearances.

"The practice of law is open only to individuals proved to the satisfaction of the court to possess sufficient general knowledge and adequate special qualifications as to learning in the law and to be of good moral character ... It demands on the part of the attorney undivided allegiance, a conspicuous degree of faithfulness and disinterestedness, absolute integrity and utter renunciation of every personal advantage conflicting in any way directly or indirectly with the interests of his client ... Artificial creations such as corporations ... cannot meet these prerequisites and therefore cannot engage in the practice of law." *State Bar Assn. v. Connecticut Bank & Trust Co.*, 145 Conn. 222, 234 (1958). "The concerns expressed by the court in *State Bar Assn.* are not present where the corporation was formed for the specific purpose of providing legal services, and where the members are licensed attorneys bound by the Rules of Professional Conduct." *Cooney & Bainer, P.C. v. Milum,* Superior Court, judicial district of New Haven at Meriden, Docket No. 246558 (June 20, 1995) (Silbert, J., 14 Conn. L. Rptr. 426, 429).

***3** In the present case, Falkoff has filed an appearance indicating that he is representing the plaintiff in his individual capacity. Furthermore, the plaintiff is a professional corporation "formed for the specific purpose of providing legal services ..." *Id.* Accordingly, the prohibition set forth in *State Bar Assn. v. Connecticut Bank & Trust Co.* does not apply to this case. Therefore, the court will not grant the defendant's motion to disqualify on this ground.

III.

The defendant also states that the court should disqualify Falkoff because of a conflict of interest. "Rule 1.7 applies to situations where representation of one client will be directly adverse or materially limited by the attorney's responsibilities to another [existing] client or to a third person or by the lawyer's own interests." *Cooney & Bainer, P.C. v. Milum,* Superior Court. judicial district of New Haven at Meriden, Docket No. 246558 (June 20, 1995) (Silbert, J., 14 Conn. L. Rptr. 426, 428-29). "Rule 1.9

(a) prohibits representation if the interests of a current client are materially adverse to the interests of the former client and the two matters of client representation are the same or substantially related." *Id.* "This case presents none of these scenarios. The only connection between this case and the plaintiff's prior representation of the defendant is the matter of the allegedly unpaid fees, and this is not the kind of substantial relationship contemplated by the Rule." *Id.* Accordingly, the court will not grant the defendant's motion to disqualify on conflict of interest grounds.

For the foregoing reasons the court denies the defendant's motion to disqualify Attorney Mercer-Falkoff from representing the plaintiff in this case.

Conn.Super.,1996.
DeSarbo P Reichert, P.C. v. Cardow
Not Reported in A.2d, 1996 WL 166431 (Conn.Super.), 16 Conn. L. Rptr. 386

END OF DOCUMENT

EXHIBIT 3

Not Reported in A.2d, 2003 WL 23177472 (Conn.Super.)

Motions, Pleadings and Filings

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Superior Court of Connecticut,
Judicial District of Middlesex.
Letizia D'ANGELO et al.
v.
Judith SCHIRALDI.
No. CV030101478.
Dec. 18, 2003.

Farrell, Guarino & Boccalatte PC, Middletown, for Letizia D'Angelo and Raffaele D'Angelo.

Philip Block, Hartford, for Judith Schiraldi.

CLARANCE J. JONES, Judge.

***1** Plaintiffs Letizia D'Angelo and Raffaele D'Angelo have filed a five-count complaint designed to redress of their essential claim that defendant Judith Shiraldi wrongfully refused to return $21,000 in monies which they transferred to her in anticipation of purchasing a parcel of her property known as 112 Washington Road in Cromwell, Connecticut. The gravamen of the complaint is that the defendant knew or should have known and should have disclosed the existence of an encumbrance on the property that affected marketability of its title. In the first count of their complaint the plaintiffs allege that defendant Judith Schiraldi promised and failed to convey marketable title of a real property located at Washington Street, Cromwell.

The second count of the complaint alleges fraudulent nondisclosure of the encumbrance on the aforementioned property. The third count of the complaint alleges negligent misrepresentation with respect to the encumbrance. The fourth count alleges that the defendant's conduct in not disclosing the encumbrance and allowing the plaintiffs to incur costs in preparation for purchasing the property constitutes an unfair and deceptive trade practice in violation of Connecticut General statutes Section 42-110(g). Finally, the fifth count seeks rescission of the agreement.

On or about June 24, 2003, plaintiffs, pursuant to Rule 3.7 of the Professional Rules of Conduct, filed a motion to disqualify the defendant's attorney, Philip Block. Rule 3.7 of the Rule of Professional Conduct, with certain exceptions, prohibits an attorney from representing a client in a case in which the attorney is likely to be a necessary witness. The defendant maintains that Attorney Block's testimony is not necessary in this case and therefore he should not be disqualified. The defendant further claims that disqualification of Attorney Block would work a substantial hardship on the her.

The court shall now review the relevant facts asserted by the parties. On or about November 21, 2002 the plaintiffs entered into a sales agreement with the defendant for the purchase of real property located at 112 Washington Road, Cromwell, Connecticut. The parties had agreed to close on the property sometime in January 2003. It was the parties' understanding that the plaintiff was responsible for searching the title. Apparently the title search was not conducted until approximately three or four days prior to closing. It was at this time that the plaintiffs claimed that they first learned about an easement and an encroachment both of which affected marketability of title.

The plaintiffs claim that they reasonably tried to secure financing, but were unable to do so

because of the existence of the encumbrance. The defendant claims that she and her husband are people of limited means, and that they have already incurred significant debt because of this transaction.

Rule 3.7 of the Professional Rules of Conduct. Rule 3.7(a) states that

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:

***2** (1) The testimony relates to an uncontested issue; (2) The testimony relates to the nature and value of legal services rendered in the case; or

(3) Disqualification of the lawyer would work substantial hardship on the client.

The plaintiffs claim that Attorney Block is a material witness in this case for two reasons. First, he had prior knowledge of the easement that is at the crux of this dispute. Second, plaintiff claims that his testimony is necessary in regard to discussions with regard to damages.

"The trial court has the authority to regulate the conduct of attorneys and has a duty to enforce the standards of conduct regarding attorneys." *Bergon v. Mackler,* 225 Conn. 391, 397 (1993). "The trial court has broad discretion to determine whether there exists a conflict of interest that would warrant disqualification of an attorney." *Id.* "At issue in the case, therefore, is whether [Block] himself is likely to be a necessary witness, and if so, whether he falls into any of the exceptions to the rule." *DeSarbo & Reichert, P.C. v. Cardow,* 16 Conn. L. Rptr. 386, 387 (1996) quoting *Cooney & Bainer, P.C. v. Milum,* 14 Conn. L. Rptr. 426, 427 (1995). "A finding of necessity takes into account such factors as the significance of the matters, weight of the testimony and the availability of other evidence." *Id.* at 428. "There is a dual test for necessity. First the proposed testimony must be relevant and material. Second, it must be unobtainable elsewhere." "Testimony may be relevant and even highly useful but still not strictly necessary." *Id.* "The party moving to disqualify counsel bears the burden of proof." (internal question marks omitted.) *Id.*

From a review of the facts presented in this case the court finds that the plaintiff does not meet the second prong of the test for necessity, inasmuch as the testimony which the plaintiff is seeking is obtainable from someone other than attorney Philip Block. Defendant Judith Schiraldi and her husband possess material knowledge as to the events involving the disclosure of the easement that occurred prior and subsequent to the signing of the purchase agreement.

The defendant also maintains that she qualifies for the hardship exception embraced by Rule 3.7. A review of the defendant's financial information supports her position in this regard.

Accordingly, for the foregoing reasons, the plaintiff's motion to disqualify Attorney Philip Block is denied.

Conn.Super.,2003.
D'Angelo v. Schiraldi
Not Reported in A.2d, 2003 WL 23177472 (Conn.Super.)

Motions, Pleadings and Filings (Back to top)

• MMX-CV-03-0101478-S (Docket) (May 19, 2003)
END OF DOCUMENT

EXHIBIT 4

Not Reported in A.2d, 2004 WL 2896616 (Conn.Super.), 38 Conn. L. Rptr. 299

Motions, Pleadings and Filings

UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Superior Court of Connecticut,
Judicial District of Tolland.
Cleopatra MATLIS
v.
PROBATE APPEAL.
No. CV030082717S.
Nov. 19, 2004.

Rothenberg Rothenberg & Rothenberg, Wethersfield, for Kathleen Levigne and Victoria Ullah.

JANE S. SCHOLL, J.

***1** This is an appeal from probate. Attorney Seymour A. Rothenberg represents Kathleen Lavigne and Victoria Ullah, the Appellants, who claim to be aggrieved by a Probate Court's ruling in which it denied an application for probate of a will, finding that the decedent, Cleopatra Matlis, was a domiciliary of New Hampshire. The Appellee, Michael C. Loulakis, has moved that counsel for the Appellants, as well as his law firm, Rothenberg & Rothenberg, be disqualified from representing the Appellants in this matter because: (1) counsel has a conflict of interest in representing the Appellants since their interests are adverse to the interests of Attorney Rothenberg's former client Cleopatra Matlis, and (2) counsel, as well as several members of his law firm, are material witnesses and will be called upon to testify in this appeal. Attorney Rothenberg has filed no objection to the motion but appeared at short calendar and argued in opposition to it.

In his motion to disqualify, the Appellee alleges that Rothenberg has a long-standing attorney-client relation with Lavigne and he has represented her in two other previous matters. In March 2002, Rothenberg represented the decedent in connection with the preparation and execution of the will sought to be admitted to probate. Employees of Rothenberg's firm served as witnesses to the decedent's signing of the will. In this will, the decedent left virtually all of her estate to the Appellants. In contrast, in November 1992, the decedent had executed another will in which she left almost nothing to the Appellants. On October 14, 2003, the Appellee was appointed co-executor of the decedent's estate by a New Hampshire probate court.

"The trial court has broad discretion to determine whether there exists a conflict of interest that would warrant disqualification of an attorney ... Disqualification of counsel is a remedy that serves to enforce the lawyer's duty of absolute fidelity and to guard against the danger of inadvertent use of confidential information ... In disqualification matters, however, [the court] must be solicitous of a client's right freely to choose his counsel ... mindful of the fact that a client whose attorney is disqualified may suffer loss of time and money in finding new counsel and may lose the benefit of its longtime counsel's specialized knowledge of its operations ... The competing interests at stake in the motion to disqualify, therefore, are: (1) the [movant's] interest in protecting confidential information; (2) the plaintiffs' interest in freely selecting counsel of their choice; and (3) the public's interest in the scrupulous administration of justice." (Citations omitted; internal quotation marks omitted.) *Bergeron v. Mackler*, 225 Conn. 391, 397-98, 623 A.2d 489 (1993).

"[R]ule 1.7 of the Rules of Professional Conduct sets forth the general rule on conflicts of interest in an attorney-client relationship." *Burton v. Mottolese*, 267 Conn. 1, 44, 835 A.2d 998, cert. denied, --- U.S. ----, 124 S.Ct. 2422, 158 L.Ed.2d 983, 158 L.Ed. 983 (2003). Subsection (a) of the Rule provides: "A lawyer shall not represent a client if the representation of that client will be directly

adverse to another client, unless: (1) The lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and (2) Each client consents after consultation.

***2** Rule 1.9 of the Rules of Professional Conduct "governs disqualification of counsel for a conflict of interest relating to a former client." *Bergeron v. Mackler, supra,* 225 Conn. at 398, 623 A.2d 489. The rule states that: "A lawyer who has formerly represented a client in a matter shall not thereafter: (1) Represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or (2) Use information relating to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known." Rules of Professional Conduct 1.9.

Pursuant to Rule 1.9, "an attorney should be disqualified if he has accepted employment adverse to the interests of a former client on a matter substantially related to the prior representation ... This test has been honed in its practical application to grant disqualification only upon a showing that the relationship between the issues in the prior and present cases is patently clear or when the issues are identical or essentially the same ... Once a substantial relationship between the prior and the present representation is demonstrated, the receipt of confidential information that would potentially disadvantage a former client is presumed." (Citations omitted; internal quotation marks omitted.) *Bergeron v. Mackler, supra,* 225 Conn. at 398-99, 623 A.2d 489.

Here there appears to be no dispute that Attorney Rothenberg represented both the Appellants and the decedent at the time the will was executed. Attorney Rothenberg is now representing the Appellants in an action in which the Appellee claims he is taking a position in opposition to the decedent. However, although the Appellee has been appointed as co-executor in New Hampshire, he was neither named nor has he appeared in this matter in that capacity. His appearance is on behalf of "contestant." An executor, however, does not stand in the shoes of the decedent but represents the rights of the heirs, distributees, and creditors of the estate. *Cadle Company v. D'Addario,* 268 Conn. 441, 445, 844 A.2d 836 (2004).

In any event, the Appellee appears in this matter pro se and may not appear as such in his capacity as executor of the decedent's estate. " 'Because *pro se* means to appear for one's self, a person may not appear on another person's behalf in the other's cause.' (Emphasis in original.) *Iannaccone v. Law,* 142 F.3d 553, 558 (2d Cur.1998). 'Any person who is not an attorney is prohibited from practicing law, except that any person may practice law, or plead in any court of this state 'in his own cause.' General Statutes § 51-88(d)(2). The authorization to appear pro se is limited to representing one's own cause, and *does not permit individuals to appear pro se in a representative capacity.*' (Emphasis added.) *Expressway Associates II v. Friendly Ice Cream Corp. of Connecticut,* 34 Conn.App. 543, 546, 642 A.2d 62, cert. denied, 230 Conn. 915, 645 A.2d 1018 (1994)." *Lowe v. Shelton,* 83 Conn.App. 750, 756, 851 A.2d 1183 (2004).

***3** Since the Appellee does not represent the interests of the decedent or of the estate, he is not the proper person to either object or consent to Rothenberg's dual representation.

As to the second grounds of the motion to disqualify, the motion indicates that at the hearing before the Probate Court, Attorney Rothenberg introduced the testimony of employees of his firm. There is no indication that Attorney Rothenberg was a witness before the Probate Court or that his testimony will be required in this proceeding. Rule 3.7 of the Rules of Professional Conduct governs whether an attorney should be disqualified when he or she is a necessary witness. The rule states: "(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where: (1) The testimony relates to an uncontested issue; (2) The testimony relates to the nature and value of legal services rendered in the case; or (3) Disqualification of the lawyer would work substantial hardship on the client. (b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9." Rules of Professional Conduct 3.7.

According to the Supreme Court, "Rule 3.7 of the Rules of Professional Conduct requires an attorney to withdraw if he or she *reasonably foresees* that he will be called as a witness to testify on a

material matter." (Emphasis in original; internal quotation marks omitted.) State v. Crespo, 246 Conn. 665, 695, 718 A.2d 925, cert. denied, 525 U.S. 1125, 119 S.Ct. 911, 142 L.Ed.2d 909, 142 L.Ed. 909 (1998).

The court must make a factual determination in deciding whether the attorney's testimony is truly necessary. In fact, "[a] strong showing that the testimony of the opposing attorney is truly necessary is required before the court may grant a motion to disqualify opposing counsel." *Somers & Associates v. Kendall,* Superior Court, judicial district of Windham at Putnam, Docket No. 064478 (February 23, 2001, Foley J.).

"Testimony may be relevant and even highly useful but still not strictly necessary. A finding of necessity takes into account such factors as the significance of the matters, weight of the testimony and availability of other evidence." (Internal quotation marks omitted.) *Penna v. Margolis,* Superior Court, judicial district of New Haven, Docket No. CV 03 0475408 S (February 9, 2004, Zoarski, J). "[T]he mere statement that the attorney 'will be a necessary party witness' [would] not support [the] motion." (Citation omitted; internal quotation marks omitted.) *Bopko v. Bopko,* Superior Court, judicial district of Waterbury, Docket No. FA98-0149148S (November 8, 2000, West, J.) (28 Conn. L. Rptr. 556).

If the court determines that an attorney's testimony is necessary, then that attorney may not "serve as trial counsel because of the difficulties presented in simultaneously testifying and fulfilling such advocacy functions as objecting to questions of opposing counsel and posing questions on cross-examination. Rule 3.7 cures this logistical problem by permitting non-witness lawyers from the same firm to act as trial counsel unless the whole firm must be disqualified pursuant to Rule 1.7." *Talcott Mountain Science Center for Student Involvement v. Abington,* Superior Court, judicial district of Waterbury, Docket No. X01 CV 95 0152121 (June 28, 2002, Hodgson, J.) (32 Conn. L. Rptr. 420). Courts have drawn a distinction between representation and advocacy for purposes of Rule 3.7. Specifically, finding that "Rule 3.7 does not, on its face, preclude all representation; rather, it precludes only acting as an advocate at trial." (Internal quotation marks omitted.) *Id.* Thus, "Rule 3.7 does not authorize a court to disqualify an attorney from representing a client. It only allows the court to order that a lawyer be precluded from providing representation at trial if it appears likely that the lawyer will be a necessary witness ..." *Horgan v. Capozzi,* Superior Court, judicial district of Ansonia-Milford at Milford, Docket No. CV 03 0083020S (Mar. 24, 2004, Robinson, J.) (36 Conn. L. Rptr. 734).

***4** "In determining whether an attorney must be disqualified, a court may [but is not required to,] hold an evidentiary hearing." *Id.* "Before 1986, the Code of Professional Responsibility proscribed representation not only by the attorney-witness but by any lawyer in the attorney-witness's firm, with certain exceptions which are irrelevant to this motion. However, in 1986 our rules of practice replaced the Code of Professional Responsibility with the Rules of Professional Conduct, including 3.7(b). That subsection broke from the earlier prohibition and now specifically provides that '[a] lawyer may act as advocate in a trial in which another lawyer in the lawyers' firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9.' " (Citations omitted.) *Beckenstein Enterprises v. Smith,* Superior Court, judicial district of Tolland, Docket No. X07-CVO2 0080437S (March 28, 2003, Sferrazza, J.). "Rule 3.7(b) is a significant and important change. Under the Code, if one member of a firm had to testify, all members of the firm were disqualified ... Rule 3.7(b) eliminates the blanket imputed disqualification which previously existed under the Code. The holding in *Erwin M. Jennings Co. v. DiGenova,* 107 Conn. 491, 141 A. 866 (1928), that the giving of material testimony by the trial attorney's partner violated the Code, should no longer result under this Rule. It is no longer mandatory for a lawyer, upon discovering she must testify on behalf of a client, to seek the services of another attorney and withdraw from the case. If either the lawyer-advocate or the lawyer-witness (both of the same law firm) has a conflict of interest pursuant to Rule 1.7 (General Conflict) or Rule 1.9 (Former Client) the lawyer-advocate may be precluded from the representation under Rule 1.10. However, absent those specific conflict situations, even if a lawyer called to testify, another lawyer from the firm may now try the case." (Citation omitted; internal quotation marks omitted.) *Johnston v. Casey,* Superior Court, judicial district of New London, Docket No. 557021 (Apr. 25, 2002, Corradino, J.) (32 Conn. L. Rptr. 74).

Here there has not been a sufficient showing at this point to establish that Attorney Rothenberg

will be a witness at trial or that, even if he will, all members of his firm would be disqualified.

"Disqualification is both harsh and draconian, and ... the movants have a heavy burden to show clearly that disqualification is warranted." (Internal quotation marks omitted.) *Murray v. Murray* Superior Court, judicial district of Hartford at Hartford, Docket No. CV 020820216S (June 16, 2003, Shapiro, J.) (35 Conn. L. Rptr. 103). "The courts should act very carefully before disqualifying an attorney and negating the right of a client to be represented by counsel of choice." *Close, Jensen & Miller v. Lomangino,* Superior Court, judicial district of Tolland at Rockville, Docket No. 48419 (March 10, 1995, Klaczak J.).

***5** The Appellee has not met this burden here therefore the Motion to Disqualify Appellant's Counsel is denied without prejudice to renewal if it appears Attorney Rothenberg will be a necessary witness at trial.

Conn.Super.,2004.
Matlis v. Probate Appeal
Not Reported in A.2d, 2004 WL 2896616 (Conn.Super.), 38 Conn. L. Rptr. 299

Motions, Pleadings and Filings (Back to top)

• TTD-CV-03-0082717-S (Docket) (Oct. 16, 2003)
END OF DOCUMENT

EXHIBIT 5

Not Reported in A.2d, 1995 WL 459263 (Conn.Super.)

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Superior Court of Connecticut, Judicial District of Fairfield, at Bridgeport.
WHITNEY, Stanton,
v.
CAPULLO, Edward dba.
No. CV 92-029-53-47.
July 24, 1995.

MEMORANDUM OF DECISION RE: OBJECTION TO MOTION TO DISQUALIFY # 156

MAIOCCO, Judge.

***1** On October 14, 1993, the plaintiffs; Stanton L. Whitney and Connecticut Insurance Services, Inc.; filed a three count amended complaint against the defendants, Edward Capullo d/b/a Capullo Corporate Services (Capullo) and Aegis Security Insurance Co. (Aegis). Count one alleges that Aegis committed fraud and misrepresenatation against the plaintiffs. Count two alleges that Capullo intentionally interfered with the plaintiffs' prospective contractual relations. Count three alleges that Capullo diverted corporate opportunities from the plaintiffs.

On June 12, 1995, Aegis filed a motion to disqualify or to disclose a "Mary Carter" agreement. On May 16, 1995, the plaintiffs' filed an objection to Aegis's motion.

Only the plaintiffs' attorney, Attorney Anthony Slez, submitted an affidavit. The court therefore, is utilizing Slez's representations, which are not contested, in deciding the motion to disqualify.

According to the affidavit, on April 16, 1993, Slez deposed Capullo, who was not represented by counsel at the time.[FN1] Before starting the deposition, attorney Slez spoke with Capullo in his office. Slez told Capullo that the plaintiffs would limit Capullo's liability in the case to only one dollar and, in return, the plaintiffs expected (1) an open, candid and truthful deposition and (2) a minimal defense. Attorney Slez states that "[t]he substance of pre-deposition conversation with Capullo was made known to Robert Nicola, attorney for Aegis insurance, on, or about, May 3, 1993 over two years ago." (Affidavit, paragraph 37.)

> FN1. At the deposition and throughout the course of this case, the law firm of Owens, Schine & Nicola represented Aegis. Attorney Arthur Gravanis attended Capullo's deposition on behalf of Aegis. Previously, Attorneys Robert Nicola and Elaine Scanlon, who worked at Owens, Schine & Nicola, had represented Aegis. Presently, Attorney Scalon does not work at Owens, Schine & Nicola and represents Capullo.

The trial court has the authority to regulate the conduct of attorneys and has a duty to enforce the standards of conduct regarding attorneys." *Bergeron v. Mackler,* 225 Conn. 391, 397, 623 A.2d 489 (1993).

In its motion to disqualify, Aegis argues that the court should disqualify Attorney Slez because he will be called as a witness to testify to the Mary Carter agreement. Aegis argues that Slez's testimony "will have a strong bearing on the credibility of several witnesses." Aegis contends that Professional Rule of Conduct 3.7 prohibits an attorney from representing a party in a matter in which the attorney will be called as a witness.

In their objection to the motion to disqualify, the plaintiffs present two arguments with regard to why Attorney Slez should remain their attorney. FN2 First, the plaintiffs argue that the testimony that Aegis intends to offer through Attorney Slez is within an exception to Professional Rule of Conduct 3.7, Second, the plaintiffs argue that Aegis's motion to disqualify is intended to harass, to vex and to intimidate the plaintiffs and the plaintiffs' attorney, rather than to eliminate a prejudice. Professional Rule of Conduct 3.7 states:

FN2. The plaintiffs also argue that the Mary Carter agreement should not be disclosed to the jury. This argument does not pertain to the motion to disqualify.

"(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:

(1) The testimony relates to an uncontested issue;

(2) The testimony relates to the nature and value of legal services rendered in the case; or

***2** (3) Disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9"

The comment to paragraph (a)(3) aids the interpretation of the rule. The comment states that:

paragraph (a)(3) recognizes that a balancing is required between the interests of the client and those of the opposing party. Whether the opposing party is likely to suffer prejudice depends on the nature of the case, the importance and probable tenor of the lawyer's testimony, and the probability that the lawyer's testimony will conflict with that of other witnesses. Even if there is risk of such prejudice, in determining whether the lawyer should be disqualified due regard must be given to the effect of disqualification on the lawyer's client. It is relevent that one or both parties could reasonably foresee that the lawyer would probably be a witness.

Professional Rule of Conduct 3.7, comment.

It appears to the court that the disqualification of Slez would work a substantial hardship on the plaintiffs. Aegis has known about the substance of the conversation between Slez and Capullo for approximately two years before filing its motion to disqualify Slez. During those two years, the parties have conducted discovery and taken the depositions of witnesses in many states. To disqualify the plaintiffs' attorney at this juncture would delay the trial in order to permit new attorneys to familiarize themselves with the case. See *Brand v. Matheny,* 9 CSCR 247 (February 14, 1994, Aurigemma, J.) (denying a motion to disqualify, in part, because the moving party waited two and half years before filing the motion to disqualify.)

"Disqualification may be required only when it is likely that the testimony to be given by the witness is necessary. Testimony may be relevant and even highly useful but still not strictly necessary. A finding of necessity takes into account such factors as the significance of the matters, weight of the testimony and availability of other evidence." *Brand v. Matheny,* supra, 9 CSCR 247, 247.

Although the finding of prejudice alone supports the court's decision to deny the motion of disqualify, the court may also consider the applicability of the exceptions to Rule 3.7. Here, the court finds that Slez's testimony concerning the Mary Carter agreement is within the third exception to Rule 3.7. Aegis appears to want to call Slez as a witness to impeach Capullo's testimony by showing that Capullo had agreed, at one point, to make Aegis entirely responsible for the plaintiffs' injuries. It is entirely probable that Slez's testimony may not be necessary because Capullo may well testify to his agreement with Slez and Slez's testimony would be unnecessarily duplicative.

Accordingly, for the reasons cited the motion to disqualify is denied.

***3** Aegis, alternatively, requests that the agreement between Slez and Capullo be disclosed to the jury.

"The motion in limine is not formally recognized by our statutes or rules of practices, and has generally been used in Connecticut courts to invoke a *trial* judge's inherent discretionary powers to control proceedings, exclude evidence, and prevent occurrences that might unnecessarily prejudice the right of any party to a fair trial." (Emphasis added.) *Richmond v. Long,* 27 Conn.App. 30, 36, 604 A.2d 374 (1992). "Given the interlocutory nature of these motions [in limine] it makes more sense in terms of encouraging an intelligent decisional process to have one judge-the trial judge-hear these preliminary matters, continue to live with his or her decision as the case progresses and the evidence develops, and reserve the right to change the ruling previously made if fairness indicates this would be the best course." *TCR Manchester I Limited Partnership v. Board of Tax Review,* 11 Conn.L.Rptr. 233, 234 (March 7, 1994, Corradino, J.)

Aegis's alternative proposal-for the agreement to be disclosed to the jury-is in the nature of a motion in limine. The court, therefore, will reserve any decision on the admissibility of the agreement to the trial court judge who will be more familiar with the issue presented. The court does note, however, for the convenience of the parties and the trial court judge, that the annotation at 22 A.L.R.5th 483 seems to favor disclosing Mary Carter agreements to the jury. However, the court has not been presented with any Connecticut case and the annotation is not binding.

In summary, the court denies the motion to disqualify and renders no ruling on the request to order disclosure of the "Mary Carter" agreement to the jury.

Conn.Super.,1995.
Whitney v. Capullo
Not Reported in A.2d, 1995 WL 459263 (Conn.Super.)

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EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SCOTT SIDELL,	:	3:08CV710 (VLB)
Plaintiff,	:	
v.	:	
STRUCTURED SETTLEMENT INVESTMENTS, LP, PLAINTIFF FUNDING HOLDING, INC. (D/B/A "LAWCASH"), DENNIS SHIELDS, HARVEY HIRSCHFELD, RICHARD PALMA, and SCOTT YUCHT,	:	
Defendants.	:	July 31, 2008

DECLARATION OF JOHN K. CROSSMAN IN OPPOSITION TO SCOTT SIDELL'S MOTION TO DISQUALIFY

I, John K. Crossman, declare and state under 28 U.S.C. § 1746 as follows:

1. I am a member of Zukerman Gore & Brandeis, LLP, ("ZGB"), which is counsel to Structured Settlement Investments, LP, Plaintiff Funding Holding, Inc., Dennis Shields, Harvey Hirschfeld, Richard Palma and Scott Yucht (collectively Defendants). I am chair of my firm's litigation department, and am in charge of this matter, as well as the Arbitration currently pending between substantially the same parties and Scott Sidell, and also the PJR complaint seeking dueling prejudgment remedies in connection with the arbitration, which complaint is pending elsewhere in this District. I make this affidavit upon my own personal knowledge except as to matters averred upon information and belief, and as to those, I believe them to be true.

2. I have practiced civil litigation for over twenty (20) years. I am a member of the bars of the States of Connecticut (since 1987) and New York, as well as the District of Connecticut and approximately a dozen other courts across the country. I have an AV rating conferred by Martindale Hubble, and I have never been sanctioned or disqualified in any proceeding of any kind.

3. I was saddened to read the memorandum of law and motion to disqualify me and my firm, not only because counsel for Mr. Sidell never made any real attempt to gather his facts before proceeding with this insupportable attack, but because the papers are filled with unproven (and, it should be said, unprovable) *ad hominem* attacks on me, including implicit assertions of criminal and/or fraudulent conduct, deliberate concealment, and unethical behavior. It saddens me that a fellow member of the bar would so eagerly make such charges, even admitting that these charges are based upon things that, we are assured, "there is good reason to believe" (plaintiff's memorandum of law ("Mem.") at 17) or that will, supposedly, be explained "depending on information obtained during discovery" in this action. (Mem. at 13). We are told that this motion concerns "ongoing criminal or fraudulent conduct" (Mem. at 11-12), but we are never told what the crime or fraud supposedly is, much less what the evidence is.

4. Because, for the reasons I will detail in this affidavit, none of these charges holds any merit, I would have hoped that counsel would not have been so cavalier as to put such a document in the public record without possession of hard evidence.

5. But instead, Mr. Sidell on this motion is proceeding upon a barge-full of suppositions, and most of them appear, without supporting authority, in Sidell's

memorandum – which was submitted, it bears noting, by a lawyer who was not even involved in these matters at the time they occurred.

6. On August 24, 2007, Scott Sidell was terminated by SSI for Cause. In the August 24, 2007 termination letter, we made demand upon Sidell to repay $450,000 that he had received as an advance, to be repaid if he was terminated prior to September 2007, which he was. (Exhibit A to this affidavit is a copy of the termination letter). Shortly thereafter, we sent Sidell a series of letters demanding, among other things, that he return company property, a laptop computer and a blackberry. On October 12, 2007, after learning that Sidell had taken a copy of the company's database, we sent Sidell a cease and desist demand letter. (Exhibit B to this affidavit is a copy of that demand). We gave Sidell two business days from receipt, until October 18, 2007, to comply. Sidell had to have known that if he failed to comply, that SSI would name him as a respondent in an arbitration. Arbitration was mandated by Sidell's employment agreement for all disputes relating to Sidell's employment.

7. Sidell was not content to wait to be named as a respondent. The day of the deadline for compliance with that demand, Sidell failed to comply, and instead preemptively commenced an Arbitration in New York City under the administration of JAMS.

8. Not only did Sidell jump-the-gun by filing an arbitration, he also chose to name a host of parties as respondents, even though they were not signatories to Sidell's arbitration agreement. All of those parties, which comprise substantially the same parties as here, answered, and SSI filed a counterclaim against Sidell, the same claim it would have filed as "claimant" had Sidell not rushed to JAMS first.

9. Between the time of Sidell's termination, and the filing of SSI's counterclaim in the Arbitration, several things happened that are touched upon, albeit sometimes incompletely or erroneously, in the instant motion to disqualify.

10. First, I am informed and believe that immediately after Sidell was fired, he returned – without authorization – to the office of SSI, and there he accessed one of SSI's corporate computers. I understand that the particular computer was not within Sidell's former workspace, and had not been assigned to him. Having been terminated, Sidell was not even authorized to be in the offices, much less using a company computer. Sidell nevertheless proceeded to enter the office, and to use that computer, and an email access program that Sidell appears to have previously installed on that computer contrary to company policy. What did he do with that computer and that program? He proceeded to steal extensive amounts of valuable, confidential data belonging to his employer, including customer lists, files, and the like. These takings are detailed in the affidavit of Rich Palma, attached as Exhibit C (at ¶¶ 35-36), which was filed on June 13, 2008 in the PJR action, *Scott Sidell v. Structured Settlement Investments, LP and Plaintiff Funding Holding, Inc.*, Civil Action No. 3:08 CV 717 (JBA).

11. Second, I am informed that an agent of SSI discovered and observed Sidell *in flagrante delecto*, while he was trespassing in the office and in the act of using this unauthorized program to illegally send to his personal email account a series of emails full of stolen data. Soon after being discovered, Sidell left the premises, never to return.

12. Third, I am informed that the SSI agent who observed Sidell in the act immediately contacted Scott Yucht, who is charged with maintaining the SSI computer

systems. Yucht regularly employs a remote access program on all SSI computers, and I understand that this practice is well-known to all employees, and was known to Sidell. Employing the standard remote-access program, Yucht could apparently view on the computer in question exactly what it was that Sidell had been doing. He apparently could see right into Sidell's Yahoo email account because the program that Sidell had installed on the computer provided a "window" to see straight into that account. Yucht looked, and quickly discovered the massive data theft.

13. I am now informed that over the next few days, Yucht remotely accessed that computer to gather up the evidence in order to be able to determine the extent of the damage, to be in position to seek appropriate remedies, and perhaps to prevent some amount of further harm.

14. At the time that Yucht was engaged in this remote access of the computer and the Yahoo account, neither I nor anyone at my firm had communicated with Yucht in any fashion. I have never met Yucht, and indeed had never spoken to him until after he had finished his last access of the Yahoo account. No one at my firm was consulted or gave any instructions concerning Yucht's access to the Yahoo account.

15. I am informed that Yucht acted on his own, consistent with his corporate responsibility, in a simple and straightforward attempt to assess the extent of damage that had been done to the corporate computer systems that he is charged with safeguarding.

16. Subsequently, Yucht forwarded a collection of some emails to his superiors, and eventually that collection was delivered to my office.

17. At the time we received the emails, my office was not aware that Yucht had, allegedly, looked at the account on more than one day. At the time we received the

emails, we were under the impression that all of the emails in question concerned communications of Sidell made on the day of his termination, or before that day. Months later, after the emails were produced to Sidell's then-attorneys (Mr. Corenthal and Mr. Rabin, but not anyone at the Hurwitz Sagarin firm, which had not yet been retained), at a hearing before JAMS Arbitrator Jeanne Miller, Sidell's then-attorneys asserted for the first time that some of the emails were prepared by Sidell after he was terminated, on a subsequent day. As Arbitrator Miller will certainly recall, this came as a surprise to me.

18. In any case, when we received the emails, we discovered that some of them were between Mr. Rabin and Mr. Sidell. As soon as that was discovered, I ordered that all emails between Mr. Sidell and an attorney be quarantined (the "Attorney Emails"), so that no one would review them, in order for us to figure out what was the proper course of action. A copy of the label from the file indicating the quarantine status, is annexed to this affidavit as Exhibit D.

19. At that time, when we had first discovered that some attorney communications were included, there was no reason to believe that any of the Attorney Emails were "misdirected" or sent in error. Even today, there is no reason to think that any were misdirected. Rather, at the time that we were dealing with the Attorney Emails, it appeared that the emails had been sent, deliberately, from a company computer, in violation of company email policy, on a computer not even assigned to Sidell, and left open and viewable by anyone in the SSI offices. It was apparent to me that based upon these facts, there was no reasonable expectation of privacy. The question as I understood it therefore was: Do communications prepared and sent in this fashion constitute

privileged communications, or are they non-privileged because, for example, they were sent under circumstances that evidence a deliberate waiver of privilege.

20. The Attorney Emails were kept under quarantine while we researched the answer to this question.

21. We determined that there was a corporate email policy, and that Sidell had a copy of it. The policy which is attached as Exhibit E, reads in pertinent part:

> **E-Mail and Internet Usage**
>
> Use of e-mail and the Internet is reserved solely for the conduct of Company business.

(See Exh. E at p. 17).

> **E-Mail and Internet Policy**
>
> Company equipment (such as the computer system, e-mail and access to the Internet) is to be used for business purposes only. To ensure that all employees are using Company e-mail and the Internet in a responsible manner, the following policies have been established:
>
> - Use of the Company's computer system (including e-mail and the Internet) is reserved solely for the conduct of Company business. It may not be used for personal business.
>
> - The e-mail system is Company property. All messages composed, sent, or received on this system are and remain the property of the Company. They are not the private property of any employee and may be disclosed within the Company without the permission of the employee who composed or received them.
>
> - The Company reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent over the e-mail and Internet systems for any purposes. By using the Company's e-mail and Internet systems, the employee recognizes the rights of the Company and consents to them.
>
> ...
>
> - The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read it.

(See Exhibit E at pp. 26-27).

22. Our pre-review research disclosed that where, as here, there is a corporate email policy like the one at SSI, an employee cannot claim that such emails are privileged. Before reviewing the emails, I relied for this conclusion upon *Scott v. Beth Israel Medical Center, Inc.* 2007 WL 3054451 (N.Y. Sup. Oct 2007) and *In Re Asia Global Crossing, Ltd.*, 322 B.R. 247 (2005).

23. It is important to remember that at this point in time, and for some months after, we were unaware of there being any emails in the Attorney Email collection that were prepared after Sidell's last visit to the office. At the time, we did not know that it was even possible for there to be emails from after that date in the collection. Because we had no knowledge of such "post termination date" emails being included, we in good faith did not consider or think to consider such an unexpected possibility.

24. Having concluded that these communications were not "misdirected," we were not required to follow any of the "inadvertent production" or "misdelivery" procedures relied upon by Sidell in his disqualification memorandum. We were dealing with something entirely different: emails prepared under circumstances where an employee had no right to claim a privilege.

25. Under such circumstances, our duty of zealous representation, in my judgment, required us to review the Attorney Emails because they were clearly nonprivileged under applicable law. They were fair game, just like any other communication not made privately.

26. Having determined that cases recognize that there is no privilege under the circumstances present here, we removed the quarantine and I reviewed the Attorney

Emails in the collection that were between Sidell and Rabin. To my present recollection, there were no emails with Mr. Corenthal. (I have not reviewed the emails since they have been returned to Sidell's counsel months ago, although they are attached to papers presently filed by Sidell in the arbitration). Although I have no knowledge of whether Mr. Sidell was communicating with Mr. Corenthal by email at the time in question, I do not believe that any emails from him were included in the collection we received. I am confident that I never heard Mr. Corenthal's name until months later, when Mr. Rabin's firm was getting ready to withdraw from the representation of Sidell, and I was informed by Rabin that Corenthal's firm was about to take over.

27. I don't recall anything of interest (or indeed anything at all) in the collection of Attorney Emails, except for the discovery that Sidell had secretly tape-recorded his termination meeting. I am confident that I learned nothing of any importance in the case other than of the existence of this tape, which had been concealed from our client.

28. On January 18, 2008, as part of the general production of requested documents, the Attorney Emails were then produced to Sidell's attorney along with other emails, not sent to an attorney, which were the emails in which, immediately after his termination, Sidell stole massive amounts of highly valuable company data. As has already been made clear through extensive telephonic hearings and submissions in the arbitration, counsel did not "redact" anything from the emails.

29. We had sought to produce these materials in advance of January, but we could not do so because Sidell's counsel was slow to agree to a protective order. In fact, after weeks of discussions, Sidell eventually refused to agree to the proposed

confidentiality agreement, so that the arbitrator herself had to enter a protective order, which she did on January 18. The document production followed immediately. It is important to understand that as part of this document production, we were producing copies of the same emails in which Sidell illegally sent himself our customer lists, and other things, and it was critical that we not give them these sensitive documents "in the clear" without obligation of confidentiality.

30. After the emails were produced, Sidell's then-attorney raised concerns about the Attorney Emails with the arbitrator. In February 2008, at a conference call, we learned for the first time of the existence of post-termination-date emails among the Attorney Emails. As soon as we discovered the existence of such emails in the mix, I immediately agreed to return ***all*** copies of those emails to Sidell's attorney, and to delete any electronic copies so that we would have no danger of access to them. This we promptly did.

31. That should have been the end of the matter, but Sidell has proven to be intent on making the largest possible issue about this. He has, accordingly, raised it with our arbitrator, and the entire issue is the subject of pending cross-motions for sanctions in the Arbitration. SSI seeks to Sanction Sidell for violating the protective order by intentionally using the emails and other discovery materials outside of the Arbitration, and Sidell seeks to sanction SSI and this law firm, for the identical things raised in this motion. A copy of Sidell's motion in the arbitration is attached as Exhibit F.

32. It is notable that Sidell filed his disqualification motion in response to the sanctions motion pending against them. On June 13, 2008, the arbitrator issued an order authorizing respondents to file a motion for sanctions for Sidell's violation of the

arbitrator's protective order. Sidell then warned that if respondents were going to seek sanctions, he would in turn seek sanctions and to disqualify counsel – thereby demonstrating that this motion is being made for tactical reasons. A copy of the Hurwitz Sagarin firm's June 19, 2008 letter to Arbitrator Miller is attached as Exhibit. G.

33. This duplication of effort points out a fundamental problem with this motion: With all due respect, this motion should be decided, if at all, by Arbitrator Miller, and not by this Court.

34. The instant dispute is among the disputes that are subject to mandatory arbitration – on July 23 we filed a motion to compel arbitration of this action, and the instant motion to disqualify ought not be decided by this Court at all, but instead should be decided (if not first withdrawn) by Arbitrator Miller, who is already in possession of the same motion in the arbitration. The conduct complained of arises 100% from the conduct of the Arbitration, and much of that conduct was personally and directly supervised by Arbitrator Miller. Not only that, the filing of this action was itself a violation of the Arbitrator's Protective Order. Additionally, the entire subject of this action concerns Sidell's employment and termination and his illegal conduct immediately following his termination, all of which is covered by Sidell's employment agreement and its mandatory arbitration clause.

WHEREFORE, I would ask that this Court: (1) send this motion to the Arbitrator for decision, along with the rest of this case; or alternatively, (2) deny this motion and stay the case; or (3) stay this motion and this case pending resolution of the same issues in the arbitration.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 31st day of July 2008 in New York, New York.

/s/ John K. Crossman
John K. Crossman

CERTIFICATE OF SERVICE

I hereby certify that, on July 31, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access the foregoing through the Court's system.

/s/ John K. Crossman
John K. Crossman (ct25518)

EXHIBIT A

ZUKERMAN GORE & BRANDEIS, LLP

875 THIRD AVENUE • NEW YORK, NEW YORK 10022 TELEPHONE 212 223-6700 • FACSIMILE 212 223-6433

August 24, 2007

FEDERAL EXPRESS and
FIRST CLASS MAIL

Mr. Scott Sidell
21 Old Mill Road
Westport, CT 06880

Re: Termination for Cause

Dear Mr. Sidell:

We represent your employer, Structured Settlement Investments, L.P. ("SSI"). As you know, your employment is governed by an Employment Agreement between SSI and you dated as of September 6, 2006 (the "Agreement").

Section 7(a) of the Agreement sets forth the grounds for termination of your employment for Cause. In particular, Section 7(a)(vii) provides that SSI may terminate and discharge you effective immediately upon written notice to you in the following event: "a breach of a representation or warranty by Sellers, which breach was known by Employee to be untrue, under that certain Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith." This letter constitutes such notice to you of your termination effective immediately because of such event.

The particular representations and warranties by Sellers which were known to you include at least the following:

(1) "To SSI's Knowledge, no key employee or group of employees (or independent contractors) have any plans to terminate employment with SSI, except in connection with the acceptance of employment with Purchaser." (Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith ("LawCash Agreement") § 2.13(c).

(2) "Neither SSI or any Seller has received any notice from a Person to the effect that it would cease to do business with SSI under any circumstances including if SSI were to be sold, nor to the Seller's Knowledge has any Person threatened to cease to do business with SSI." (LawCash Agreement § 2.4).

It has come to our attention that in fact, contrary to Representation and Warranty (1), you knew that a matter of days before the LawCash Agreement was scheduled to be signed, Michael

C. Betzig, a key employee, had come to you and explained that he in fact had a plan to terminate employment with SSI to join a competitor. You failed to disclose this information, which would have been highly significant had it been disclosed.

Contrary to Representation and Warranty (2), you knew that shortly before the signing of the LawCash Agreement, a key customer, Patriot Settlement, had given notice that it would cease to do business with SSI, and that it had threatened to cease to do business with SSI.

Furthermore, it appears that you have breached your fiduciary duty to the company by attempting to induce another employee, Mr. Betzig, to claim a bonus to which he is not entitled. This is an independent violation of Section 7(a)(v), and it constitutes an additional basis for immediate termination for cause. Your own claim for a bonus is yet another breach, relying as it does upon a fraudulent statement of receipts. In particular, you claimed that SSI had received in the relevant 12 month period in excess of $12 million. But your accounting, we have learned, was grossly (and clearly intentionally) misstated by a factor of several million dollars. The portion of the Agreement regarding your bonus for receipt of in excess of $12 million is set forth in Section 3(b). That Section clearly states that it is based upon receipt ***by SSI*** of that amount in gross dollars from the sale of structured settlement, lottery [etc.]. Yet your calculation appears to be based upon a deliberate misreading of the provision, and an aggregation of funds received by customers of SSI as part of those transactions – a computation which is nothing less than ludicrous under the agreement.

We are informed that other representations and warranties are presently being reviewed, as well as your other conduct, and this notice is without prejudice of the right of our client to supplement if and when additional misdeeds are identified.

We call to your attention Section 3(d) of the agreement, which requires you ***forthwith*** to repay to SSI your special one time bonus of $450,000, all of which you have already received. Demand, although not required, is hereby made for same.

We remind you of your obligations under the Restrictive Covenants contained in Section 6 of the Agreement.

This letter is made with full reservation of the rights of our client, all of which are expressly reserved.

Very truly yours,

John K. Crossman

EXHIBIT B

ZUKERMAN GORE & BRANDEIS, LLP

875 THIRD AVENUE • NEW YORK, NEW YORK 10022 TELEPHONE 212 223-6700 • FACSIMILE 212 223-6433

October 12, 2007

By Federal Express and
First Class Mail

Mr. Scott Sidell
21 Old Mill Road
Westport, CT 06880

Re: **Cease and Desist Demand**

Dear Mr. Sidell:

As you know, we represent your former employer, Structured Settlement Investments, L.P. ("SSI").

SSI has learned that just before your termination of August 24, 2007, you took a copy of SSI's database and that you have since misused such information for the purpose of soliciting business. This is a violation of your covenants, including your covenants not to use any of SSI's confidential information, not to compete with SSI, and not to solicit SSI's business.

In specific, we remind you that you agreed in writing that you:

> "will not (without first obtaining the express permission of the SSI) (i) divulge to any person or entity, nor use (either himself or in connection with any business) any "Confidential Information" (as hereinafter defined in Section 6(b) hereof) and (ii) divulge to any person or entity, nor use (either himself or in connection with any business) any "Trade Secrets" (as hereinafter defined in Section 6(c) hereof) to which he may have had access or which had been revealed to him during the course of his employment, in each case, unless such disclosure is pursuant to a court order, disclosure in litigation involving the SSI or in any reports or applications required by law to be filed with any governmental agency, but only after reasonable prior written notice thereof to the SSI, which written notice shall set forth in reasonable detail the proposed disclosure, to the SSI."

"Confidential Information" was specifically defined to include "all information and data in respect of the SSI's operations or the SSI's financial condition, products, customers and business" to which you had access in the course of your employment. We refer you to Section 6(a)-(c) of your Employment Agreement dated September 6, 2006 (the "Agreement").

In addition, you further agreed that:

> "during the period beginning with the initial commencement of Employee's employment with the SSI (including subsidiaries or affiliates) and ending three (3) years following the termination of Employee's employment with the SSI for any reason or for no reason ("Non-Compete Period"), Executive shall not, directly or indirectly, engage in or become interested in (whether as an owner, principal, agent, stockholder, member, partner, trustee, venturer, lender or other investor, director, officer, employee, consultant or through the agency of any person or entity) any business or enterprise that at any time during the Non-Compete Period shall be in whole or in part competitive with any material part of the business conducted by the SSI (which, for purposes of this Section 6 shall include the SSI's subsidiaries and affiliates)."

We refer you to Section 6(d) of the Agreement. We also remind you of your obligations under the restrictive covenants not to solicit business from those who have done business with SSI, and not to recruit any employees, consultants, etc. from SSI, as contained in Section 6(e) of the Agreement.

On behalf of SSI, we demand that you immediately cease and desist from any further breaches of the covenants in your Agreement, and that you not contact any persons listed on SSI's database.

Your breaches already have caused significant damage to SSI's reputation in the industry. To minimize any further damage, we require that you take the following steps:

1. You must immediately return all of SSI's property and confidential information and all copies thereof, including without limitation any hard copies of SSI's database and any computer discs containing information copied from SSI's computer system. You should return this information by overnight mail to our attention.

2. You must permanently and completely delete from your computer(s) any copies of the SSI database or any other information you took from SSI.

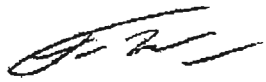
3. You must reaffirm that you will cease and desist from taking any actions to interfere with SSI's business. You must not use any of SSI's property or confidential information to solicit SSI's customers or for any other purpose.

4. You must reaffirm your obligation not to solicit or interfere with any of the customers listed in SSI's database.

Because of the exigent circumstances, you are required to respond to this letter within two (2) business days of receipt.

This letter is made with full reservation of the rights of our client, all of which are expressly reserved. This includes among other things the right to seek to enjoin you from using SSI's confidential information or soliciting SSI's customers. SSI also reserves the right to sue you to obtain monetary damages for your breaches of fiduciary duty, your misappropriation of SSI's property and confidential information, and your tortious interference with SSI's business relationships. Failure to comply may result in action without further notice to you.

Very truly yours,



Frank C. Welzer

cc: Structured Settlement Investments, L.P.

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SCOTT SIDELL, Plaintiff, V. STRUCTURED SETTLEMENT INVESTMENTS, LP, and PLAINTIFF FUNDING HOLDING, INC. (D/B/A "LAWCASH"), Defendants.	:	CIVIL ACTION NO. 3:08 CV 717 (JBA) JUNE 13, 2008

DECLARATION IN SUPPORT OF
APPLICATION FOR PREJUDGMENT REMEDY

I, Rich Palma, declare and state under 28 U.S.C. § 1746 as follows:

1. I am employed as a Chief Operating Officer for Structured Settlement Investments, L.P. ("SSI"). I make this Declaration upon my own personal knowledge, in support of SSI's Application for Prejudgment Remedy against Scott Sidell pursuant to Connecticut General Statutes § 52-422.

2. SSI seeks security for its claims pending in arbitration against SSI's former Chief Executive Officer, Scott Sidell, arising from Sidell's financial

mismanagement, deception, concealment of material information, improper diversion of transactions, self-dealing, and breach of fiduciary duty, all to his improper benefit and all to the detriment of SSI.

3. Sidell was instrumental in the acquisition of the ownership interests in SSI by Structured Settlements, LLC f/k/a Lawcash Structured Settlements, LLC ("Settlements") in September 2006. Prior to that acquisition, Sidell had been employed as a key employee of SSI and had been intimately involved with the business of SSI. As buyer, Settlements relied upon Sidell, to provide accurate and complete information concerning the financial condition of the company. Immediately after the acquisition, Sidell became Chief Executive Officer of SSI. When the post-acquisition SSI board invited Sidell to run the company post-acquisition, they did so in explicit reliance upon its expectation that Sidell had provided complete and accurate information about the company. They also built a mechanism into Sidell's employment agreement in order to address any false representations by Sidell or other "cause" for Sidell's termination. As a result of his wrongdoing, Sidell is contractually required to return to SSI a $450,000 advance that was paid to Sidell upon the condition that he would return it if he was terminated for cause within one year.

The Purchase Transaction and Employment Agreement

4. On September 6, 2006, SSI's ownership interests were purchased by Settlements pursuant to a written purchase agreement (the "Purchase Agreement"). Immediately after the purchase, an affiliate of Settlements, a company called Plaintiff Funding Holdings, Inc. (hereafter "PFH") became managing member of SSI.

5. As part of the purchase of SSI by Settlements, Scott Sidell participated in the due diligence investigation of SSI by providing financial and business data which was relied upon by Settlements for the acquisition, and by supervising others who provided financial and business data which was relied upon by Settlements for the acquisition. Settlements relied upon Sidell to prepare and present accurate financial and business data.

6. Based upon that information, immediately after the acquisition, Sidell became employed by SSI as its CEO. His employment was governed by an employment agreement (hereafter referred to as the "Employment Agreement"). A true copy of the Employment Agreement is attached as Exhibit A.

7. The Employment Agreement was entered into contemporaneously with a purchase agreement dated September 6, 2006 (hereafter referred to as the Purchase Agreement").

8. Under to Section 3(d) of the Employment Agreement, SSI was to pay to Sidell a special one time bonus of $450,000, in quarterly installments, "provided, however, that [Sidell] shall repay forthwith any portion of the Special Bonus received by him if prior to the first anniversary hereof [Sidell] is terminated for "Cause." (Emphasis added). Thus, Sidell's right to keep the $450,000 advance was conditional on Sidell not being terminated for Cause within one year (hereafter the "Conditional Bonus").

9. A side-letter dated September 6, 2006, provided, among other things, that Sidell could accelerate payment of the entire Conditional Bonus. However, the side-letter also confirmed that "[i]n the event that [Sidell] is terminated for cause or elects to voluntarily terminate prior to the one year anniversary" of the September 6, 2006, SSI's manager "will have the right to demand full repayment of the entire retention bonus."

10. Sidell accelerated the payment, and on or about September 15, 2006, he was paid the entire $450,000 Conditional Bonus by SSI.

11. Upon information and belief, at the time of the sale, when Sidell obtained his own Employment Agreement, Sidell knew of important false representations in the Purchase Agreement. Indeed, it appears that Sidell not only knew of these false representations; he orchestrated them. However, he did such a good job of covering his tracks that it took months -- but less than year -- for SSI to discover the truth.

Sidell's Misrepresentations

12. The Purchase Agreement contained certain representations and warranties concerning the state of the business, including the status of its employees and customers. Because Settlements, in purchasing SSI, was relying on Sidell to be honest about the business, Sidell's Employment Agreement provided that SSI could terminate Sidell for Cause if Sidell knew that any representation was untrue. In specific, Section 7(a)(vii) provides that SSI may terminate and discharge Sidell for Cause effective immediately upon written notice to Sidell in the event of: "a breach of a representation or warranty by Sellers, which breach was known by Employee [Sidell] to be untrue..." Upon information and belief, there are at least four separate representations which Sidell knew to be untrue.

13. First, Sidell vouched for the representation and warranty that:

> To SSI's Knowledge, no key employee or group of employees (or independent contractors) have any plans to terminate employment with SSI, except in connection with the acceptance of employment with Purchaser.

However, Sidell knew this representation and warranty to be untrue.

14. Upon information and belief, contrary to this representation and warranty, Sidell knew that days before the Purchase Agreement was scheduled to be signed, Michael C. Betzig, a key employee, had gone to Sidell and explained that he in fact had a plan to terminate employment with SSI to join a competitor. Shortly after the closing, Betzig spoke of his disdain for Sidell and that he could not work with him. Sidell had previously represented that there were "no problems." Sidell failed to disclose this information, which would have been highly significant had it been disclosed.

15. Second, Sidell vouched for the representation and warranty that:

> Neither SSI or any Seller has received any notice from a Person to the effect that it would cease to do business with SSI under any circumstances including if SSI were to be sold, nor to the Seller's Knowledge has any Person threatened to cease to do business with SSI.

However, Sidell knew this representation and warranty to be untrue.

16. Upon information and belief, contrary to this representation and warranty, Sidell knew that shortly before the signing of the Purchase Agreement, a key customer, Patriot Settlement, had threatened to cease to do business with SSI, and had given notice that it would cease to do business with SSI. Patriot has substantially ceased to do business with SSI.

17. Third, Sidell vouched for the representation and warranty that:

> SSI is in possession of all permits, licenses, registrations and government authorizations ("Permits") required under Laws for the current operation of its business and its compliance with the requirements and limitations included in such Permits.

However, Sidell knew this representation and warranty to be untrue.

18. Upon information and belief, contrary to this representation and warranty, Sidell knew that SSI was not registered in many states.

19. Fourth, Sidell vouched for the representation and warranty that:

> §2.3 . "...The Financial Statements (a) are in accordance with the books and records of SSI, and (b) fairly and accurately present the assets, liabilities (including all reserves) and financial position of SSI as of the respective dates thereof and the results of operations for the periods covered thereby.

However, Sidell knew this representation and warranty to be untrue.

20. Upon information and belief, contrary to this representation and warranty, Sidell knew that the financial statements did not fairly and accurately reflect SSI's financial position. As part of due diligence, Sidell prepared and supervised the collection of financial and business data which was relied upon by Settlements. Approximately one-third of the deals that were represented as being in the Pipeline at the time of acquisition were in fact dead. Sidell knew that these deals were worthless and would never close, but Sidell kept them on the books and, as a result, the company received a distorted impression of the value of the business prospects of SSI.

21. Meanwhile, Sidell also trumped-up his own worth by claiming to have brought-in most of the business in the Pipeline – the same business that Sidell had failed to disclose was worthless. Sidell also professed to be a mathematician with unique abilities in the art of "pricing" deals. However, it is now clear that pricing was done through a computer model.

22. Moreover, in the period before the sale transaction, instead of running deals through SSI, Sidell ran them through "Eliot Sidell and Scott Sidell's Trust Account." The deals which Sidell diverted to himself, at the expense of SSI, and the respective commission misappropriated by Sidell from SSI include: (a) Helen Smith, $10,000.00 commission; (b) Pamela Williams, $6,381.00 commission; (c) Richard

Manley, $1,307.00 commission; (d) Karen Nerem, $2,840.00 commission; (e) Richard Bodan, $6,831.00 commission; (f) Robert Emph, $2,250.00 commission; (g) Ricky Newsom, $9,500.00 commission; and (h) Harrington, $1,500.00 commission.

23. As a result, SSI entered into the Employment Agreement with Sidell based upon an incorrect impression of the value Sidell brought to the business. Accordingly, Sidell procured his Employment Agreement though deceit.

24. Sidell's failure to disclose these inaccuracies constitute Cause for Sidell's termination.

Sidell's Breaches of Fiduciary Duties

25. Section 7(a)(v) of the Employment Agreement sets forth additional grounds for termination of Sidell's employment for Cause. It provides that SSI may terminate and discharge Sidell for Cause effective immediately upon written notice to Sidell in the following event: "the breach of a fiduciary duty owed by [Sidell] to SSI."

26. While acting as SSI's CEO, Sidell breached fiduciary duties by engaging in unethical practices which jeopardized and damaged SSI's business. Upon information and belief, Sidell caused back-dated documents that SSI was submitting to courts for judicial approval of plaintiff funding. This came to light after certain attorneys declined to work with SSI as a result of Sidell's actions. This has hurt SSI's business, the life-blood of which is referrals from attorneys.

27. While acting as SSI's CEO, Sidell breached his fiduciary duties by depriving SSI of corporate opportunities for the benefit of himself, his friends and relatives. Upon information and belief, Sidell referred certain business opportunities to his second wife, herself a settlement broker, without recompense to SSI.

28. While acting as SSI's CEO, Sidell breached his fiduciary duties by hiring and referring SSI legal work to a lawyer who turned out to be the boyfriend of a relative, all without disclosing this inherent conflict of interest. Although the lawyer in question was supposed to work for SSI, Sidell prohibited SSI employees from contacting that lawyer directly.

29. While acting as SSI's CEO, Sidell breached his fiduciary duties by claiming a bonus from SSI based upon a fraudulent statement of receipts. Under § 3(b) of the Employment Agreement, Sidell was entitled to a special bonus of $300,000 "[i]n the event that...SSI shall receive at least $12,000,000 (gross dollars)" from the sale of certain factored receivables in the first 12 months after the company's purchase. (Emphasis added). SSI had not, in fact, received $12 million in the required 12 months. However, Sidell claimed that he was entitled to the special bonus based upon a false accounting, which was based upon money that SSI's customers (and not SSI, as required by the agreement), had received. Incredibly, Sidell demanded payment of the bonus because, he claimed, SSI's customers had received $12 million in payouts – which is an entirely different benchmark than the amount of money that SSI received on the transactions, which is the benchmark provided in the Employment Agreement.

30. Upon information and belief, thereafter, Sidell told his second-in-command, Mr. Betzig, to claim a bonus himself based on the same distorted accounting.

31. As his employment with SSI continued, Sidell refused instructions from his direct supervisors for financial reporting concerning deals. At the time, it seemed that Sidell was just being difficult or non-responsive. Sidell was frequently absent from the office. He worked in a two-person outpost near his home in Connecticut, and during his

eleven months with the company neglected to visit the head Philadelphia office except for two brief occasions. He once, for example, specifically refused a request for important financial information with a response to the effect that "maybe someone else can do that over the weekend, not me." But now, with the benefit of hindsight, it appears clear that Sidell was trying to cover his tracks. Sidell needed to keep secret the fact that the various deals would never close.

SSI Terminates Sidell For Cause

32. As a result of the discovery of Sidell's breaches of contract and breaches of duty, on August 24, 2007, SSI provided Sidell with written notice of termination for Cause – or SSI attempted to provide it on that date. In a face-to-face meeting with me and Harvey Hirschfeld, Sidell flatly refused to accept the termination letter when it was handed towards him. Instead, he fled the scene without taking it.

33. Sidell was terminated for Cause prior to the first anniversary of the Employment Agreement. A copy of the termination letter is attached as Exhibit B.

34. Section 3(d) of the Employment Agreement provides that if Sidell was terminated for Cause within the first anniversary of the Employment Agreement, Sidell would repay forthwith to SSI the $450,000 Conditional Bonus. SSI has demanded that Sidell return the $450,000, but Sidell has failed to return it. Sidell has breached the Employment Agreement by failing to repay the $450,000 Conditional Bonus to SSI.

Sidell Breaches Additional Covenants

35. Per paragraph 6(b) of Sidell's Employment Agreement, dated September 6, 2006, Sidell understands that SSI's customer lists and other information are proprietary. However, witnesses confirm that after he was fired on August 24, 2007, Sidell returned to the company office and accessed a company computer outside of his previously assigned workspace, one that had been used by another employee.

36. Using that computer without authorization, Sidell then sent to his personal Yahoo email account trade secrets and confidential company information, including lists identifying, among other things: (i) every single customer, their home addresses and phone numbers, (ii) the terms of every deal, (iii) all brokers who sent business to the company, and (iv) personal information about all of the company's employees. In addition, email messages show that Sidell forwarded to his personal email account proprietary excel spreadsheets which are used to price structured settlements. In fact, Sidell sent to his personal email account information that he could use to contact the company's customers, brokers and attorneys, and the proprietary spreadsheets that he could use to price and take their business.

37. Since then, Sidell has misused SSI's information in order to contact business contacts and customers of SSI for the purpose of soliciting business. For example, on September 10, 2007, seventeen days after he was fired, Sidell sent an email directly to Lance Ringhaver, who had funded a deal for a customer listed in the company information Sidell took (Maria Velasquez), for the purpose of soliciting business. Sidell stated in his email that he was an "expert in structured settlements" who "could be of service...in helping [Ringhaver] to negotiate the risk landscape of complex deals" and he

"wanted to reach out to [him] to explore the universe of transactions in which [he] may have an interest going forward." In so doing, Sidell breached restrictive covenants in Employment Agreement § 6(d) and (e).

38. Upon information and belief, Sidell solicited business from at least seven different brokers and competitors, often asking them to send deals directly to Sidell -- and not to SSI -- so that Sidell could fund them on his own, in violation of Sidell's contractual and fiduciary duties to SSI. The brokers and competitors that Sidell improperly contacted include: (a) Jim Actis and Lawrence Paelet, Esq., Bentley Asset Group, LLC; (b) Joe Pepitone, R&P Capital Resources, Inc.; (c) Warren Chiapparelli a/k/a Steven Casper, PS Crew Holdings of South Florida, Inc.; (d) Fred Bonari, Northeastern Capital Funding; (e) Shane Faire, Fairfund Financial Group.; (f) Michael Schaul, KG Funding; and (g) Eugene Ahtirsky, Esq., Law Offices of Eugene Ahtirski.

39. Sidell is competing with SSI and interfering with SSI's customers in complete disregard of his restrictive covenants.

40. Sidell's misconduct violates the restrictive covenants of the Employment Agreement, including Sidell's covenants not to use any of SSI's confidential information, not to compete with SSI, and not to solicit SSI's business as set forth in Sections 6 (a)-(e).

Sidell Erases Data From Laptop Computer

41. As part of Sidell's termination, SSI twice, in writing, demanded return of Sidell's laptop and blackberry, both of which were company property and contained company data.

42. On September 10 and September 28, 2007, I sent two follow-up letters to Sidell demanding, among other things, that Sidell return company property including the laptop computer. However, despite these demands, Sidell improperly retained these devices and then, in further violation of his obligations, he deliberately deleted all data from the computer.

43. On October 12, 2007, SSI sent a letter to Sidell demanding that Sidell return SSI's database and any other SSI property, and cease and desist from further violations of his restrictive covenants.

44. On October 18, 2007 -- two months after he was fired – Sidell finally returned the company laptop computer he used before he was fired, but not until after he had taken elaborate steps to delete all SSI proprietary information from the laptop.

45. A computer forensic specialist examined the laptop and determined that the Windows operating system had been re-installed over the erased hard-drive on or about October 14, 2007, while the laptop was still in Sidell's possession and after repeated demands for its return. Prior to the re-installation of Windows, the hard drive had been reformatted or "wiped clean." It appeared that the hard drive had been deleted using a third party over-writing software, prior to the re-installation of Windows operating system. The laptop was searched for deleted files, but less than ten were located.

The Arbitration

46. The Employment Agreement contains an arbitration clause allowing a party to demand that a dispute arising under the Employment Agreement be settled by arbitration before JAMS:

> Any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof whether sounding in contract or tort, and whether arising out of any statute, or otherwise, shall be settled by binding arbitration in New York City in accordance with the Rules of JAMS or its successor entity. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may otherwise be required by applicable statute. The losing party shall pay all the costs of the arbitration including the reasonable attorney's fees and costs of the other party.

(Employment Agreement, Exh. A, at § 18, pp. 8-9).

47. On or about October 18, 2007, Sidell commenced the arbitration with JAMS in New York City.

48. On or about November 14, 2007, SSI filed its Counterclaims against Sidell.

49. In the arbitration, SSI asserts that because of the breaches set forth above, Sidell must return to SSI the $450,000 conditional bonus. SSI also seeks an award of actual damages to SSI and against Sidell in an amount proven at hearing for losses sustained by reason of the breaches alleged herein, including for example any damage to reputation, loss of business, or other results of Sidell's misconduct, including his misuse and theft of confidential information, all in an amount to be determined at trial, together with interest thereon; and evidentiary and monetary sanctions against Sidell for spoliation of evidence.

50. In addition, I understand that Sidell has breached his obligations under two separate orders issued by the Arbitrator directing Sidell to produce data which Sidell wrongfully took from SSI. Sidell has not complied with the Arbitrator's orders.

51. I am informed that prejudgment interest at the statutory rate of 9%, as provided by New York law (N.Y. C.P.L.R. §§ 5001 and 5004), from Sidell's date of termination to present is $32,510.96.

52. We have been billed a total of $106,378.50 in attorneys' fees and $1,080.95 in costs to date in connection with the Arbitration.

53. To date, we have paid $29,177.35 directly to JAMS for arbitration costs.

54. As a result, SSI seeks an order *pendente lite* to secure the sum of six-hundred nineteen thousand one-hundred forty seven dollars and seventy-six cents ($619,147.76).

55. Based on the facts stated above, there exists probable cause that SSI will obtain an arbitration award in the amount of $619,147.76, or an amount greater than the amount of the prejudgment remedy sought, taking into account any known defenses, counterclaims or set-offs.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 12th day of June 2008 in New York, New York.

Rich Palma

EXHIBIT A

EMPLOYMENT AGREEMENT

By and Between

STRUCTURED SETTLEMENT INVESTMENTS, L.P.

and

SCOTT SIDELL

As of September 6, 2006

TABLE OF CONTENTS

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of September 6, 2006, by and between Structured Settlement Investments, LP, a Delaware limited partnership ("SSI") and Scott Sidell, an individual residing at 21 Old Mill Road, Westport, CT 06880 ("Employee").

WITNESSETH:

WHEREAS, SSI desires to employ Employee as President and Employee desires to be exclusively employed by SSI as its Chief Executive Officer; and

WHEREAS, both parties desire to clarify and specify the rights and obligations which each have with respect to the other in connection with Employee's exclusive employment hereunder.

NOW, THEREFORE, in consideration of the agreements and covenants herein set forth, the parties hereby agree as follows:

1. Employment

SSI hereby employs Employee as its Chief Executive Officer, and Employee hereby accepts such exclusive employment and agrees to render his exclusive services as an employee of the SSI, for the "Term" of this Agreement (as set forth in Section 5 below), subject to and upon the terms and conditions set forth herein.

2. Duties and Responsibilities of Employee

(a) Commencing on the date first set forth above, Employee shall be exclusively employed as the SSI's Chief Executive Officer, and Employee agrees to provide his exclusive services to the SSI, subject to the terms and conditions hereof. Employee shall perform his duties and responsibilities in a manner commensurate with those of a similarly situated employees in a similar business. In the performance of any and all of his duties for the SSI, Employee shall report directly to Marc Waldman ("Waldman"), or any other person or persons designated by the SSI.

(b) Employee shall use his best efforts to maintain and enhance the business and reputation of the SSI and shall perform such other duties commensurate with Employee's position as may, from time to time, be designated to Employee. Employee's principal place of employment shall be the New York City metropolitan area, although Employee shall be readily available to travel as the reasonable needs of the SSI shall require. Employee shall devote himself to the business and affairs of the SSI on a full-time basis.

3. Compensation

(a) In consideration for his services to be performed under this Agreement and as compensation therefore, the SSI agrees to pay to Employee, during the

Term an annual base salary (the "Base Salary") of Two Hundred Thirty Five Thousand Dollars ($235,000.00) per annum payable in accordance with the SSI's ordinary payroll practices for salaried employees. All payments of Base Salary shall be subject to all applicable withholdings and deductions.

(b) In the event that during the twelve-month period following the date hereof, SSI shall receive at least $12,000,000 (gross dollars) from the sale of structured settlement, lottery, assignable annuity, casino jackpot or other similar factored receivables originated by SSI or third party originators as determined by SSI in good faith (the "Threshold"), Employee shall be entitled to a special bonus (the "Maintenance Bonus") of $300,000, which Maintenance Bonus shall be payable in equal quarterly payments of $25,000 over the three (3) year period commencing the month following achievement of the Threshold; provided, however, that such payments shall cease and shall no longer be required to be made if the Employee shall be terminated for Cause (as defined herein) or Employee shall voluntarily terminate his employment.

(c) Employee shall be entitled to an annual incentive Bonus of 1.5% of the amount by which the annual gross dollars from the sale of structured settlement, lottery, assignable annuity, casino jackpot or other similar factored receivables originated by SSI or third party originators as determined by SSI in good faith exceeds $16,000,000 (the "Bonus"), payable within 90 days of the end of each fiscal year during the term of this Agreement; provided that Employee is an employee of SSI at the time of payment. For purposes of determining whether the Threshold or Bonus in subsections (b) or (c) have been achieved, the annual gross dollar of structured settlement receivables shall include those receivables generated by SSI, affiliates of SSI, or otherwise at the direction of SSI or its principals, if and only if the receivables have been generated principally through the efforts of the Employee.

(d) Employee shall be entitled to a special one time bonus of $450,000 payable in twelve (12) equal quarterly installments of $37,500.00 beginning three (3) months from the date hereof (the "Special Bonus") for so long as Employee shall not have been terminated for "Cause" (as hereinafter defined) or Employee voluntarily terminates his employment hereunder; provided, however, that Employee shall repay forthwith any portion of the Special Bonus received by him if prior to the first anniversary hereof Employee is terminated for "Cause" or Employee voluntarily terminates his employment hereunder.

(e) Other Bonus or incentives will be at the discretion of the SSI.

4. **Benefits**

In addition to the compensation provided for in Section 3 above, Employee shall be entitled to the following benefits during and in respect of the Term of this Agreement:

(a) Employee shall be entitled to participate in or receive benefits equivalent to any employee benefit plan or other arrangement, including but not limited to any medical, dental, vision, retirement, disability and life insurance, generally made available by the SSI to similar executives, subject to or on a basis consistent with the terms, conditions and overall administration of such plans or arrangements, and further, to the extent practicable, consistent with the benefits received by Employee from his

immediately preceding employer; provided, that such plans and arrangements are made available at the absolute and sole discretion of the SSI and nothing in this Agreement establishes any right of the Employee to the availability or continuance of any such plan or arrangement.

(b) Commencing in calendar year 2007, Employee shall be entitled to four (4) weeks paid vacation in accordance with the SSI's standard practices as are in effect from time-to-time (provided, however, that vacation shall be earned by Employee in a manner consistent with the practices of Employee's immediately preceding employer) and at such times as are mutually agreeable to Employee and the SSI.

(c) Employee shall be entitled to reimbursement for all reasonable travel, entertainment and other reasonable expenses incurred in connection with the SSI's business, provided that such expenses are adequately documented and vouchered in accordance with the SSI's policies.

(d) All salaries, bonuses, taxable fringe benefits and other taxable payments or benefits provided by the SSI to the Employee shall be subject to withholding for all applicable taxes and insurance premiums (if any) required to be paid by Employee pursuant to SSI benefit programs.

5. Term of Employment

The term of Employee's employment hereunder shall commence on the date hereof and shall continue up to and including July 28, 2009 (the "Term"), subject to renewal upon the SSI and the Employee's mutual agreement in writing. Any reference herein to the "Term" shall include any such renewal term.

6. Restrictive Covenants

(a) Employee agrees and covenants that, at any time during which Employee is employed by the SSI (which, for purposes of this Section 6 shall include the SSI's successors-in-interest, subsidiaries and affiliates) or thereafter, he will not (without first obtaining the express permission of the SSI) (i) divulge to any person or entity, nor use (either himself or in connection with any business) any "Confidential Information" (as hereinafter defined in Section 6(b) hereof) and (ii) divulge to any person or entity, nor use (either himself or in connection with any business) any "Trade Secrets" (as hereinafter defined in Section 6(c) hereof) to which he may have had access or which had been revealed to him during the course of his employment, in each case, unless such disclosure is pursuant to a court order, disclosure in litigation involving the SSI or in any reports or applications required by law to be filed with any governmental agency, but only after reasonable prior written notice thereof to the SSI, which written notice shall set forth in reasonable detail the proposed disclosure, to the SSI.

(b) As used in this Agreement, the term "Confidential Information" shall mean and include all information and data in respect of the SSI's operations or the SSI's financial condition, products, customers and business (including, without limitation, artwork, photographs, specifications, facsimiles, samples, business, marketing or promotional plans, creative written material and information relating to characters, concepts, names, trademarks, trade names, trade

dress and copyrights) which may be communicated to Employee or to which Employee may have access in the course of Employee's employment by the SSI. Notwithstanding the foregoing, the term "Confidential Information" shall not include information which: (i) is, at the time of the disclosure, a part of the public domain through no act or omission by Employee; or (ii) is hereafter lawfully disclosed to Employee by a third party who or which did not acquire the information under an obligation of confidentiality to or through the SSI.

(c) As used in this Agreement, the term "Trade Secrets" shall mean and include information, without regard to form, including, but not limited to, technical or non-technical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information (i) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Notwithstanding anything to the contrary and in no way in limitation of the previous language, the term "trade secrets" includes all information protectible as "trade secrets" under applicable law.

Nothing in this Section 6 shall limit any protections or remedy provided to the SSI under any law, statute or legal principle relating to Confidential Information or Trade Secrets.

(d) Employee hereby agrees and covenants that during the period beginning with the initial commencement of Employee's employment with the SSI (including subsidiaries or affiliates) and ending three (3) years following the termination of Employee's employment with the SSI for any reason or for no reason ("Non-Compete Period"), Executive shall not, directly or indirectly, engage in or become interested in (whether as an owner, principal, agent, stockholder, member, partner, trustee, venturer, lender or other investor, director, officer, employee, consultant or through the agency of any person or entity) any business or enterprise that at any time during the Non-Compete Period shall be in whole or in part competitive with any material part of the business conducted by the SSI (which, for purposes of this Section 6 shall include the SSI's subsidiaries and affiliates).

(e) Employee agrees and covenants that during the Non-Compete Period, Employee shall not, on his own behalf or on behalf of any third person or entity, directly or indirectly, solicit business from any brokers or attorneys that have done business with the SSI (except for fulfilling his duties to the SSI while in the employ of the SSI), or recruit any then current employee, consultant or independent contractor of the SSI, or any individual who has served in any such capacity at any time six (6) months prior thereto, for employment or any other relationship, or induce or seek to cause such person to terminate his or her employment or arrangement or relationship with the SSI.

7. Termination

(a) Termination by the SSI for Cause. The SSI may terminate and discharge Employee and terminate this Agreement for cause ("Cause") effective immediately upon written notice to the Employee or on any other date specified in such notice upon the occurrence of

any one or more of the following events: (i) fraud, theft or embezzlement by Employee or the criminal indictment of the Employee of a felony whether or not related to the performance of his duties under this Agreement; (ii) Employee knowingly and intentionally causes the SSI to violate any law or governmental rule or regulation to which the SSI is subject; (iii) the Employee's knowing and intentional violation of any law in connection with the performance of the Employee's duties hereunder; (iv) the reckless disregard or willful misconduct of the Employee in the performance of any of his duties hereunder; (v) the breach of a fiduciary duty owed by the Employee to the SSI; (vi) the breach by Employee of any covenant or agreement contained in this Agreement; or (vii) a breach of a representation or warranty by Sellers, which breach was known by Employee to be untrue, under that certain Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith. No termination for Cause pursuant to this Section 7(a) (iv) or Section 7(a) (vi) shall be effective unless and until Employee shall have been given written notice of any proposed termination for Cause, setting forth in reasonable detail the reasons for such alleged termination for Cause, and Employee has had the opportunity to cure same for a period of ten (10) days after SSI's giving of such written notice.

In the event Employee is terminated and discharged pursuant to this Section 7(a), all obligations of the SSI hereunder shall cease, except that the Employee shall be entitled to receive (i) all earned but unpaid Base Salary, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) all accrued benefits under Section 4 hereof; however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended ("COBRA")) and (iii) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(b) **Incapacity.** Should Employee, in the reasonable judgment of a physician chosen by the SSI, become incapacitated to the extent that he is unable, with or without a reasonable accommodation, to perform the essential functions necessary to carry out his duties pursuant to this Agreement either (i) for a period of three (3) consecutive months, or (ii) for any six (6) months out of any twelve (12) month period by reason of illness, disability or other incapacity, then the SSI may terminate this Agreement upon thirty (30) days prior notice at any time after either of the foregoing periods and the SSI shall have no further obligations to Employee or his legal representatives except that the Employee or his legal representatives shall be entitled to receive (i) all earned but unpaid Base Salary through the termination date, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) the balance of all earned but unpaid annual Bonus, subject to all applicable withholdings and deductions, (iii) all accrued benefits under Section 4 hereof, however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as COBRA) and (iv) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(c) **Death.** This Agreement shall terminate immediately and automatically upon the death of Employee in which case the SSI shall have no further obligations to Employee or his legal representatives except that the Employee or his legal representatives

shall be entitled to receive (i) all earned but unpaid Base Salary through the termination date, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) the balance of all earned but unpaid annual Bonus, subject to all applicable withholdings and deductions, (iii) all accrued benefits under Section 4 hereof, however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as COBRA), and (iv) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(d) Termination by the SSI Without Cause. The SSI may terminate and discharge Employee and terminate this Agreement for any reason other than those set forth in Section 7(a) through (c) ("Without Cause") by first providing no less than ninety (90) days, prior written notice. Upon the termination of Employee's employment pursuant to this Section 7(d), all obligations of SSI hereunder shall thereafter cease upon the expiration of the applicable ninety (90) day period, except that Employee shall be entitled to receive (i) all earned but unpaid Base Salary through the termination date as well as Base Salary for a period of one (1) year thereafter payable in accordance with SSI's normal payroll practices, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) the balance of all earned but unpaid annual Bonus, subject to all applicable withholdings and deductions, (iii) all accrued benefits under Section 4 hereof; however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as COBRA), and (iv) reimbursement from SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(e) Termination by Employee. Employee may terminate employment and terminate this Agreement for any reason by first providing no less than ninety (90) days, prior written notice. Upon the termination of Employee's employment pursuant to this Section 7(e), all obligations of the SSI shall cease upon the expiration of the applicable ninety (90) day period, except that the Employee shall be entitled to receive (i) all earned but unpaid Base Salary, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices through the final day of the Employee's Notice Period, (ii) all accrued benefits under Section 4 hereof; however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended ("COBRA")), (iii) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge. Employee shall have no further obligations to the SSI other than those set forth in Section 3(d), Section 6(a), Section 6(b), Section 6(c), Section 6(d) and Section 6(e), and any other provision hereof that survives the termination of the term hereof.

8. Violation of Others Agreements

Employee represents and warrants to the SSI that he has full legal capacity to enter into this Agreement and accept employment with the SSI; that Employee is not prohibited by the terms of any written or oral contract, agreement, understanding or policy from entering into this Agreement; that the terms hereof will not and do not violate or contravene the terms of any written or oral contract, agreement, understanding or policy to which Employee is or may be a party, or by which Employee may be bound; and that Employee is under no physical or mental

disability that would hinder the performance of his duties under this Agreement. Employee agrees that, as it is a material inducement to the SSI that Employee make the foregoing representations and warranties and that such representations and warranties at all times be true in all respects, Employee shall during the Term hereof and for the Non-Compete Period indemnify and hold the SSI harmless from and against all liability, costs or expenses (including attorney's fees and disbursements) on account of the foregoing representations being untrue.

9. Specific Performance; Damages

In the event of a breach or threatened breach of the provisions of Section 6 hereof, Employee agrees that the injury which could be suffered by the SSI (which for purposes of this Section 9 shall include the SSI's successor-in-interest, subsidiaries and affiliates) would be of a character which could not be fully compensated for solely by a recovery of monetary damages. Accordingly, Employee agrees that in the event of a breach or threatened breach of Section 6 hereof, in addition to and not in lieu of any damages sustained by the SSI and any other remedies which the SSI may pursue hereunder or under any applicable law, the SSI shall have the right to equitable relief, including but not limited to issuance of a temporary or permanent injunction or restraining order, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damages or posting of any bond or other surety therefor. In addition to, and not in limitation of the foregoing, Employee understands and confirms that, in the event of a breach or threatened breach of Section 6 hereof, Employee may be held financially liable to the SSI for any consequential loss suffered by the SSI as a result thereof.

10. Notices

Any and all notices, demands or requests required or permitted to be given under this Agreement shall be given in writing and sent, by registered or certified U.S. mail, return receipt requested, by hand, or by overnight courier, addressed to the parties hereto at their addresses set forth above or such other addresses as they may from time-to-time designate by written notice, given in accordance with the terms of this Section, together with copies thereof as follows:

If to Employer, with a copy to:

Zukerman Gore & Brandeis, LLP
875 Third Avenue
New York, NY 10022
Attn.: Jeffrey D. Zukerman, Esq.

Notice given as provided in this Section shall be deemed effective: (i) on the date hand delivered, (ii) on the first business day following the sending thereof by overnight courier, and (iii) on the fifth calendar day (or, if it is not a business day, then the next succeeding business day thereafter) after the depositing thereof into the exclusive custody of the U.S. Postal Service.

11. Waivers

No waiver by any party of any default with respect to any provision, condition or requirement hereof shall be deemed to be a waiver of any other provision, condition or

requirement hereof; nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter.

12. Preservation of Intent

Should any provision of this Agreement be determined by a court having jurisdiction in the premises to be illegal or in conflict with any laws of any state or jurisdiction or otherwise unenforceable, the SSI and Employee agree that such provision shall be modified to the extent legally possible so that the intent of this Agreement may be legally carried out.

13. Entire Agreement

This Agreement sets forth the entire and only agreement or understanding between the parties relating to the subject matter hereof and supersedes and cancels all previous agreements, negotiations, letters of intent, correspondence, commitments and representations in respect thereof among them, and no party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement except as provided in this Agreement.

14. Assignment

Neither this Agreement nor any rights or obligations of Employee hereunder shall be transferable or assignable by Employee. The SSI shall have the right to assign its rights and obligations hereunder.

15. Amendment

This Agreement may not be amended in any respect except by an instrument in writing signed by the parties hereto.

16. Headings

The headings in this Agreement are solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

17. Counterparts

This Agreement may be executed in any number of original or facsimile counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

18. Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of New York, without giving effect to such state's conflicts of laws provisions. Each of the parties hereto irrevocably consents to the non-exclusive venue and jurisdiction of the federal and state courts located in the State of New York. Any dispute,

controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof whether sounding in contract or tort, and whether arising out of any statute, or otherwise, shall be settled by binding arbitration in New York City in accordance with the Rules of JAMS or its successor entity. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may otherwise be required by applicable statute. The losing party shall pay all the costs of the arbitration including the reasonable attorney's fees and costs of the other party. This section shall not preclude the parties from bringing an action in any court of competent jurisdiction for injunctive relief or other provisional remedy in relation to any dispute arising in connection with this Agreement.

19. **Survival**

The provisions of each of Sections 6, Section 7, Section 8, Section 9, Section 10, Section 12, Section 13, Section 14, Section 16, Section 18 and this Section 19 shall survive the termination or expiration of the Agreement in accordance with their respective terms.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

EMPLOYEE:

Scott Siddl

Scott Siddl

STRUCTURED SETTLEMENT INVESTMENTS, LP:

By:

Name: Harvey R. Hirschfeld

Title: Authorized Person

EXHIBIT B

ZUKERMAN GORE & BRANDEIS, LLP

875 THIRD AVENUE • NEW YORK, NEW YORK 10022

TELEPHONE 212 223-6700 • FACSIMILE 212 223-6433

August 24, 2007

FEDERAL EXPRESS and
FIRST CLASS MAIL

Mr. Scott Sidell
21 Old Mill Road
Westport, CT 06880

Re: Termination for Cause

Dear Mr. Sidell:

We represent your employer, Structured Settlement Investments, L.P. ("SSI"). As you know, your employment is governed by an Employment Agreement between SSI and you dated as of September 6, 2006 (the "Agreement").

Section 7(a) of the Agreement sets forth the grounds for termination of your employment for Cause. In particular, Section 7(a)(vii) provides that SSI may terminate and discharge you effective immediately upon written notice to you in the following event: "a breach of a representation or warranty by Sellers, which breach was known by Employee to be untrue, under that certain Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith." This letter constitutes such notice to you of your termination effective immediately because of such event.

The particular representations and warranties by Sellers which were known to you include at least the following:

(1) "To SSI's Knowledge, no key employee or group of employees (or independent contractors) have any plans to terminate employment with SSI, except in connection with the acceptance of employment with Purchaser." (Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith ("LawCash Agreement") § 2.13(c).

(2) "Neither SSI or any Seller has received any notice from a Person to the effect that it would cease to do business with SSI under any circumstances including if SSI were to be sold, nor to the Seller's Knowledge has any Person threatened to cease to do business with SSI." (LawCash Agreement § 2.4).

It has come to our attention that in fact, contrary to Representation and Warranty (1), you knew that a matter of days before the LawCash Agreement was scheduled to be signed, Michael

C. Betzig, a key employee, had come to you and explained that he in fact had a plan to terminate employment with SSI to join a competitor. You failed to disclose this information, which would have been highly significant had it been disclosed.

Contrary to Representation and Warranty (2), you knew that shortly before the signing of the LawCash Agreement, a key customer, Patriot Settlement, had given notice that it would cease to do business with SSI, and that it had threatened to cease to do business with SSI.

Furthermore, it appears that you have breached your fiduciary duty to the company by attempting to induce another employee, Mr. Betzig, to claim a bonus to which he is not entitled. This is an independent violation of Section 7(a)(v), and it constitutes an additional basis for immediate termination for cause. Your own claim for a bonus is yet another breach, relying as it does upon a fraudulent statement of receipts. In particular, you claimed that SSI had received in the relevant 12 month period in excess of $12 million. But your accounting, we have learned, was grossly (and clearly intentionally) misstated by a factor of several million dollars. The portion of the Agreement regarding your bonus for receipt of in excess of $12 million is set forth in Section 3(b). That Section clearly states that it is based upon receipt ***by SSI*** of that amount in gross dollars from the sale of structured settlement, lottery [etc.]. Yet your calculation appears to be based upon a deliberate misreading of the provision, and an aggregation of funds received by customers of SSI as part of those transactions – a computation which is nothing less than ludicrous under the agreement.

We are informed that other representations and warranties are presently being reviewed, as well as your other conduct, and this notice is without prejudice of the right of our client to supplement if and when additional misdeeds are identified.

We call to your attention Section 3(d) of the agreement, which requires you ***forthwith*** to repay to SSI your special one time bonus of $450,000, all of which you have already received. Demand, although not required, is hereby made for same.

We remind you of your obligations under the Restrictive Covenants contained in Section 6 of the Agreement.

This letter is made with full reservation of the rights of our client, all of which are expressly reserved.

Very truly yours,

John K. Crossman

EXHIBIT D

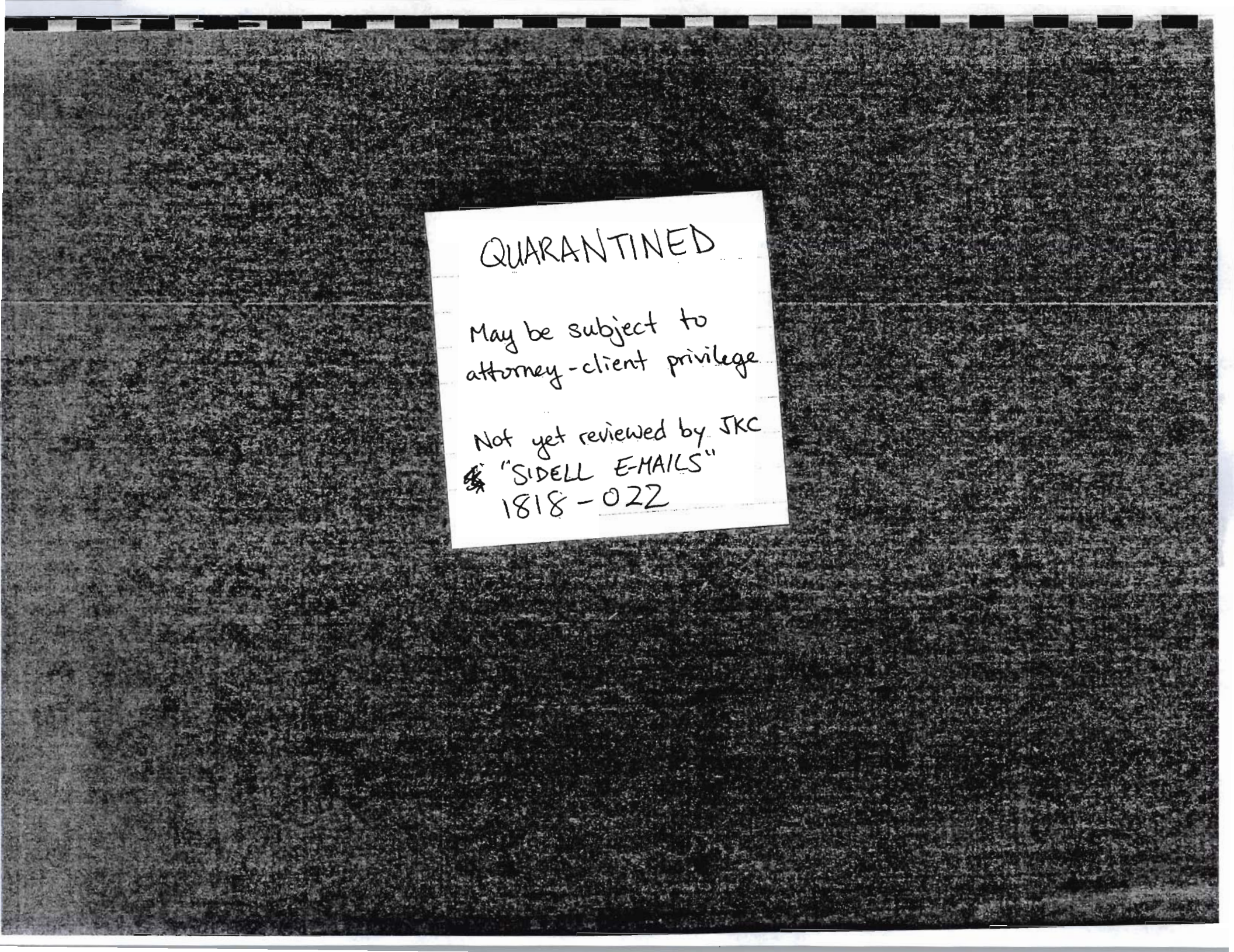

QUARANTINED
May be subject to attorney-client privilege
Not yet reviewed by JKC
"SIDELL E-MAILS"
1818-022

EXHIBIT E

Exhibit 1

LAWCASH

EMPLOYEE HANDBOOK

Dear Team Member:

Welcome to LawCash. We hope you find your employment with us challenging and rewarding.

Since February, 2000, our company has been involved in the specialty finance business working with both plaintiffs and attorneys. Today, I am proud to say, we are the unparalleled leader in the industry.

I believe that the company's employees play a vital role in its success. We seek to create an atmosphere within the company that will allow all employees to feel a genuine sense of pride and accomplishment. Our single, most important goal is to provide outstanding service to our clients. It is the combination of teamwork and dedication that has allowed us to achieve this goal.

This Employee Handbook has been designed to provide you with personnel-related information and to serve as a reference guide throughout your employment with us.

Once again, welcome to our team.

Harvey Hirschfeld
President

ABOUT THIS HANDBOOK

This Employee Handbook contains information about the personnel policies and practices of LawCash (referred to herein as "the Company"). It supersedes all previous policy memoranda issued by the Company. We expect that each employee will read it carefully since it is a valuable reference guide for personnel-related topics.

It is important to note, however, that not all Company policies and guidelines are described in the Employee Handbook.

This Handbook is not intended to create or constitute an expressed or implied contract between the Company and any one or all of its employees. Your employment with the Company is a voluntary one and is subject to termination by you or the Company at will, with or without cause, and with or without notice, at any time. Nothing in these policies shall be interpreted to be in conflict with or to eliminate or modify in any way the employment-at-will status of the Company's employees.

Aside from the **employment-at-will** policy and those policies required by law, the Company may change its policies or practices at any time with or without prior notice.

The Acknowledgement Form (page 32 of this document) indicates that you have received and reviewed a copy of the Employee Handbook. Please complete and return the form to your manager immediately.

TABLE OF CONTENTS

I. WHO WE ARE

Our Company

Plaintiff Funding Corporation, a New York corporation, doing business as LawCash, is a leading provider of non-recourse funding solutions on a nationwide basis. We were established to provide alternative means of support to individuals who have been injured in an automobile accident or other personal injury scenarios. LawCash has an experienced staff to handle your requests in a prompt, effective, and courteous manner.

ABOUT THE PROCESS

LawCash does not act as a Lender. We advance money to individuals for use in their own specific economic necessities while they await the outcome of their case. To support the advance, LawCash takes a lien on the contingent proceeds of the future value of the pending lawsuit and will be paid from the proceeds of that lawsuit. LawCash assumes the risk that if there is no recovery from the pending lawsuit, our client will not owe LawCash anything.

LawCash works closely with the individuals, their attorneys, and representatives to obtain all the pertinent facts regarding the case. We require the completion of our Application which provides us with certain facts to review the potential value of the pending personal injury case. This information includes how and when the accident occurred, nature of the injuries, name of insurance carriers involved and the policy limits, as well as legal jurisdiction. LawCash will advance as little as $500 to as much as $100,000 to qualified individuals, usually within a few days of completion of our review process.

HOW WE HELP INDIVIDUALS

Plaintiffs may have difficulties with paying their bills, mortgage, rent, etc while they await the outcome of their case. LawCash helps level the playing field to allow plaintiffs' attorneys to negotiate the settlement they deserve, especially if the insurance company, which may have all the time and money to delay resolution, offers a settlement less than expected.

What We Believe In

We expect our employees to maintain a professional work environment that is free of harassment and discrimination.

The statements below summarize the Company's policies on Equal Opportunity, Non-Discrimination and Anti-Harassment. *(For detailed information on these and other personnel policies, please refer to the section entitled "Corporate Personnel Policies" in this Handbook.)*

Equal Opportunity

LawCash is an Equal Opportunity Employer. The Company is committed to the principles of equal employment opportunity for all employees and applicants for

employment and complies with both the letter and spirit of all applicable employment laws and regulations.

Employment decisions will be made without regard to race, color, sex, religion, national origin, marital status, age, sexual orientation, citizenship status, physical or mental disability, one's status as a special disabled veteran, veteran of the Vietnam era, or any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; or any other basis prohibited by law.

This policy extends to every phase of the employment process including recruiting, hiring, training, promotions, compensation, benefits, transfers, downsizing, and Company-sponsored educational, social and recreational programs. Recognizing the value of diversity, LawCash endeavors to encourage and support a work environment that benefits from the skills and abilities of employees from a wide range of cultural values and traditions.

Non-Discrimination and Anti-Harassment

The Company will not tolerate harassment or discrimination of employees or applicants on the basis of any legally-protected status as stated in the above Equal Opportunity Policy. Conduct prohibited by this policy includes physical acts; verbal requests, demands, discussions or comments; and posting or sending written or graphic materials. If you believe that you have been a victim of harassment or discrimination, you should immediately discuss the matter with your Manager. The Company will promptly investigate any complaint and take corrective action if it is determined that a violation of the policy has occurred. It is important to note that retaliation is prohibited.

II. YOUR JOB

"At-Will Employment" Relationship

Employment at LawCash is "employment at will." This means that you may terminate your employment at any time, with or without cause or notice, and the Company retains the same right to terminate your employment at any time, with or without cause or notice. Aside from the policy of "At-Will Employment", and those policies required by law, the Company may change its policies or practices at any time with or without prior notice.

Your Status

Employees are classified as full-time or part-time employees and, under the terms of the Fair Labor Standards Act (FLSA), as either exempt or non-exempt.

- **FULL-TIME EMPLOYEE**
  An employee who regularly works 35 hours per week on a continuing basis.

- **PART-TIME EMPLOYEE**
  An employee whose regular work schedule is less than 35 hours per week.

FLSA Classification

In accordance with the Fair Labor Standards Act (FLSA) and applicable state law, all positions are also classified as either exempt or non-exempt.

- **EXEMPT EMPLOYEES**

  Exempt employees are officers, executives, managers, professional staff and others whose job duties and responsibilities allow them to be exempt from the overtime provisions of the FLSA and applicable state law. Exempt employees are compensated for the completion of their job responsibilities and are not entitled to overtime pay.

- **NON-EXEMPT EMPLOYEES**

  Non-exempt employees are employees in all other types of positions who are entitled to overtime pay for hours worked in excess of forty (40) hours per week.

Maintaining Job Performance Requirements

The Company expects each employee to maintain a satisfactory level of job performance.

INTRODUCTORY PERIOD

The first three (3) months of employment are considered an introductory period. During that time, you will learn your job duties and responsibilities and be expected to report to work as scheduled.

While we understand that this is a learning period, you are expected to perform satisfactorily and your performance will be reviewed closely. Please note, however, that completion of the introductory period does not guarantee continued employment and does not change the "at-will" nature of the employment relationship.

JOB RESPONSIBILITIES

Throughout your period of employment, the Company maintains certain expectations and standards applicable to your job. Conditions of employment include, but are not limited to, satisfactory performance of your job duties and responsibilities, reporting to work as scheduled and assuming additional responsibilities as required.

Based on business needs, it may be necessary to modify your job description, work hours and schedule; reassign you to another position; or transfer you to another location.

PERFORMANCE REVIEWS

Performance reviews will be conducted annually on your employment anniversary date to provide you and your Manager with an opportunity to discuss your job performance and to clarify your job duties and responsibilities. Your written annual appraisal is part of your personnel file. If an increase is due, it will be commensurate with your

individual performance and the profitability of LawCash. When your Manager reviews your performance you will be asked to sign your appraisal form to indicate that it was discussed with you. Your signature does not necessarily imply your agreement with the evaluation.

III. YOUR PAY

Work Schedules

Each department maintains a work schedule based on business needs. Your manager will advise you of your work schedule, including your unpaid meal break.

Time Reporting Procedures

When you are on vacation or have scheduled time off from the job, your Manager must indicate the reason for your absence in TimeTracker prior to submitting it to the Payroll Manager for processing.

Any discrepancies must be correct by your Manager; he/she must initial the event before it is submitted for processing.

Overtime

Based on the business's needs, Managers may schedule workdays and hours that differ from your standard work schedule and you may be asked to work overtime.

Pre-approved overtime will be paid in accordance with the Fair Labor Standards Act (FLSA). That is, non-exempt employees will be paid at the rate of one and one-half times their hourly rate for ***all approved hours worked in excess of 40 hours each week*** or as required by state and local law. Failure to obtain approval for overtime work will result in disciplinary action up to and including termination of employment.

Holidays

Based on the requirements of our business, employees may be required to work on approved company holidays. The employee will be entitled to a paid floating holiday for each holiday worked.

Non-exempt employees may not take time off from work in lieu of overtime pay.

Payment Of Wages

Paydays are bi-weekly on Friday. Any exceptions to this schedule will be announced in advance; for example if a holiday falls on Friday, paychecks may be distributed on the preceding Thursday.

Direct Deposit of Pay

You may authorize direct deposit of your entire net pay by designating the account to receive the funds. Please verify with your financial institution regarding their "funds availability" policy before authorizing Direct Deposit. Please note that legal or bank holidays that fall on either a Thursday or Friday may also delay funds availability until the Monday following the actual pay date.

Wage Garnishments

The Company encourages all employees to meet their financial obligations without involving the Company. However, in cases where there is a legally imposed wage garnishments, the Company will comply with the legal requirements.

IV. YOUR BENEFITS

Information contained in this Handbook related to the benefit plans is intended only to be descriptive in nature. Any interpretation regarding the specific terms, conditions or provisions of each plan is governed by the official plan documents, which are available upon request.

Health Benefits

GROUP MEDICAL INSURANCE

You will be eligible to enroll in the group medical insurance plan after you have completed three (3) months of continuous employment. If you elect to enroll, coverage begins on the first day of the month following completion of the eligibility period.

- **FULL-TIME EMPLOYEES,** who have met the eligibility criteria shown above, will have a portion of their medical insurance premium paid for by the Company. You will be responsible for the balance of the premium, which will be deducted from your "pre-tax" pay in each bi-weekly pay period.

- **PART-TIME EMPLOYEES,** who have met the eligibility criteria shown above, may purchase medical insurance at the group rate. The entire premium will be deducted from your "pre-tax" pay in twenty (20) equal payments. The Company does not contribute towards the premium.

An enrollment package, including descriptions of the plans offered and the applicable monthly premium rates, will be sent to you prior to the completion of your eligibility period.

GROUP DENTAL INSURANCE

You will be eligible to enroll in the group dental insurance plan after you have completed three (3) months of continuous employment. If you elect to enroll, coverage begins on the first day of the month following completion of the eligibility period.

- **FULL-TIME AND PART-TIME EMPLOYEES,** who have met the eligibility criteria shown above, may enroll in the dental insurance plan at their own expense. Annual premiums will be deducted from your "pre-tax" pay in twenty (20) equal payments.

NOTE: "Pre-tax" deductions are taken from your gross wages and, therefore, benefit you by lowering the taxes you pay on your wages.

LIFE INSURANCE

There is no Life Insurance benefit at this time.

SHORT-TERM DISABILITY INSURANCE

If you are unable to work for seven (7) consecutive calendar days or more due to an illness or injury unrelated to your employment or due to pregnancy, you may be eligible for short-term disability insurance in accordance with state law. You should advise your Manager if your absence is expected to last for more than seven calendar days. Your Manager will provide you with a "Notice and Proof of Claim for Disability Benefits" Form. The form must be completed by you and your attending health care professional and returned to Your Manager within 30 days of the last day worked. Your manager will submit the completed form to the Disability Insurance Carrier.

401(K) Plan

See your Benefits Administrator for more details.

V. TIME AWAY FROM WORK

Holidays

Upon completion of one (1) month continuous employment, ***full-time employees*** are eligible for the following paid holidays:

- New Year's Day.....Monday, January 1, 2007
- Martin Luther King Day.....Monday, January 15, 2007 *(soft)*
- President's Day.....Monday, February 19, 2007 *(soft)*
- Memorial Day.....Monday, May 28, 2007
- July 4th.....Wednesday, July 4, 2007
- Labor Day.....Monday, September 3, 2007
- Thanksgiving Day.....Thursday, November 22, 2007
- Christmas Day.....Tuesday, December 25, 2007

NOTE:
If a holiday falls on a weekend, it is generally observed on the preceding Friday or following Monday. A soft holiday requires a minimum staff. Employees working on a

soft holiday are entitled to an additional day off, of their choice, with management approval.
Holiday hours are not included in the calculation of overtime.

You must work the scheduled workdays before and after the holiday in order to receive holiday pay.

- **PART-TIME EMPLOYEES** are not eligible for paid Holidays.

Vacation

ELIGIBILITY
Not eligible for paid vacation time until completing six (6) months of employment. See table below:

LENGTH OF EMPLOYMENT	***VACATION ELIGIBILITY***
at 6 months	One (1) week
At completion of 12 months, and through year 2	Two (2) weeks per year
Years 3, 4 and 5	Three (3) weeks per year
Years 6 and greater	Four (4) weeks per year

- ***Part-time employees*** are eligible for one (1) week of paid vacation prorated based on the number of hours worked per week, after completion of six (6) months of continuous employment.

Vacation Example: Jane begins with LawCash on June 1, 2006. On December 1, 2006, Jane is eligible for one (1) week of vacation. On June 1, 2007, Jane is eligible for one (1) additional week of vacation.

VACATION SCHEDULING AND PAY IN LIEU OF VACATION

The Company encourages employees to take their vacation in order to enjoy time away from the office. Time off for vacation is based on business needs and in order to ensure adequate coverage during the peak period (October to December) vacation should be scheduled prior to that time period.

With management's permission, you may carry over one week of vacation into the next year and it must be used during that year or forfeited.

Upon termination of employment, you will be paid in lieu of unused accrued vacation days. *(Refer to the preceding chart to determine accrued vacation.)*

Personal / Sick Days

Upon completion of three (3) months continuous employment, ***full-time employees*** are eligible for sick/personal paid time.

Example: During an employee's first 3 months of employment, we do not pay sick/personal time off. After 3 months, the employee is eligible for sick time for which is accrued at ½ day per month. So, by way of example, if Jane begins with LawCash on June 1, 2006 and calls in sick during the timeframe (June 1, 2006 through August 31, 2006) the time off is unpaid. Beginning September 1, 2006, Jane would now have earned 1 ½ days of sick/personal time.

The days may be used as sick days, for personal business, religious or ethnic holiday observance. You must advise your Manager if you wish to use one of your Personal/Sick days.

Sick/Personal time off exceeding the policy limit will be UNPAID. Additionally, the employee may be placed on performance improvement by way of formal documentation.

- ***Part-time employees*** are not eligible for paid personal/sick days.

Bereavement / Death in the Family

Full-time and part-time employees will be paid for up to three consecutive workdays off following the death of the employee's parent, spouse, child, grandchild, brother, sister, mother- or father-in-law.

If additional time off is needed, you may use vacation or personal/sick days or take time off without pay.

Jury Duty

- **FULL-TIME EMPLOYEES,** who are scheduled for Jury Duty concurrent with their regularly scheduled workday, will receive full pay for up to a maximum of ten (10) days provided they submit their court-certified jury service documentation to their Manager.

- **PART-TIME EMPLOYEES** will have their work schedule adjusted to accommodate jury or witness duty.

Leaves of Absence

FAMILY AND MEDICAL LEAVE

The Company will grant Family and Medical Leave of Absence (FMLA) to eligible employees in accordance with the requirements of applicable state and federal laws in effect at the time the leave is granted.

To be eligible for family or medical leave, you must:

- Have worked for the Company for a total of at least 12 months
- Have worked at least 1,250 hours over the previous 12 months and
- Work in a location where the Company, within a 75-mile radius, employs at least 50 employees.

Note: Leave is based on a rolling year.

When requesting a leave, you must provide at least 30 days advance notice before the leave is to begin, or if the need for leave is unanticipated, as much advance notice as possible. You will be required to use all accrued sick, vacation and/or personal time and will be considered on leave with pay until sick, vacation and/or personal time is exhausted. If you are not able to return to when sick, vacation and/or personal time is exhausted, you will be considered on leave without pay.

If you are on leave due to your own serious illness (including giving birth to a child) for at least seven (7) calendar days you must submit a "Notice and Proof of claim for Disability" form (DB-450) to your manager within fifteen (15)days from when you receive the form.

If you are on leave to take care of an ill family member (spouse, child, parent, or placement of a child for adoption or foster care) you must submit a Physician's Certification form.

All health benefits that you were enrolled in prior to taking a family medical leave will continue during the course of your leave. Payroll deductions will continue to be taken from your paycheck while you remain on paid status. Once you are no longer on paid status, you will be responsible for your portion of the premiums while on leave.

Your portion of the premiums is due the first of the month and the amount will be stated in your FMLA letter. There is a 30 day grace period.

INTERMITTENT AND REDUCED SCHEDULE LEAVE

Intermittent and/or reduced schedule leaves may be taken whenever it is medically necessary to care for a seriously ill family member, or because you have a serious illness and are unable to work on a regular schedule. If the need for intermittent leave is known in advance based on planned treatment, you will be responsible for scheduling the treatment in a manner that does not unduly disrupt the operations of the Company, subject to the approval of your health care provider. The company has the option to transfer you, on a **temporary** basis, to an alternative job with equal pay and benefits that better accommodates recurring periods of leave. *NOTE*: Where leave is for the birth or placement of a child, use of intermittent and/or reduced schedule leaves is subject to the approval of your manager.

FMLA application forms are available upon request. *(For detailed information regarding the Company's FMLA Policy, please refer to page 25 of this Handbook.)*

MATERNITY LEAVE

Maternity leave is the same as Family and Medical Leave and benefits are administered in the same manner as described above. Compensation during the portion of a maternity leave when the woman is disabled is administered through the

Short-Term Disability Insurance Plan in the same manner as any other medical disability. Contact your manager for information regarding the FMLA, Maternity Leave and Short-Term Disability.

MILITARY LEAVE

A military leave will be granted to all employees without pay for the performance of duty with any branch of the U.S. Armed forces (including National Guard or Reserve Units) in accordance with the provisions of applicable law. For further information regarding this type of leave and your rights under USERRA, please consult with your manager.

VI. YOUR SAFETY

Workplace Safety

Your safety is a concern to us and we strive to provide you with a safe place to work. On an on-going basis, each manager is responsible to ensure a safe working environment for the staff. Your manager has overall responsibility to periodically review safety procedures and policies. Any unsafe conditions that are either observed or reported will be promptly corrected and employees are encouraged to report unsafe conditions to their manager without the threat of discrimination or reprisal.

General rules of safety in the workplace include, but are not limited to the following:

- Immediately report any injury, safety hazard, or damage to property to your Manager
- Keep your individual work area clean and uncluttered.
- Know the location of the nearest emergency exit.
- Know the location of the nearest fire extinguisher and how to use it.
- Do not smoke or permit others to smoke within Company premises.
- Do not allow unauthorized persons to operate equipment or have access to restricted areas.
- Do not engage in dangerous activities on Company property.

On-Duty Accidents and Accident Reporting

If an accident occurs on the job, notify your Manager immediately. ***If your Manager is not available and immediate medical assistance is required call 911.***

All on-the-job accidents, no matter how minor, must be reported to your manager who will meet with the injured employee in order to obtain information relative to the accident, and to determine corrective action as necessary.

VII. WORKPLACE GUIDELINES REGARDING

Attendance and Lateness

You are an essential member of our team and teamwork is at the heart of our business. It is important that you report to work as scheduled. If you are unable to report to work you must speak directly to your Manager (or, if you are unable to do so, you may have a family member or friend call on your behalf) to notify him or her of the reason for your absence or lateness. You are expected to call your manager no later than one hour prior to the start of your shift. If your absence will be longer than one day, you should advise your Manager of an expected date of return and be in contact with him or her during your illness.

You may be required to submit medical certification for any absence of any three or more consecutive days. Should your absence be more than seven (7) calendar days, you may be eligible for the Short-Term Disability Insurance benefit.

Absence or lateness, which is considered by the Company to be excessive, may result in disciplinary action up to and including dismissal.

IMPORTANT: *An absence for a period of two (2) consecutive workdays without notifying your Manager of the reason for your absence may be considered a voluntary termination of employment.*

Appearance and Dress

You should report to work neatly groomed and maintain a high standard of personal hygiene. You may wear casual dress clothes to work. While the Company understands that dress is a matter of individual taste, management reserves the right to determine whether or not certain attire is inappropriate. If you report to work dressed or groomed inappropriately, you may be sent home and your pay will be adjusted accordingly.

Examples of inappropriate attire include, but are not limited to:

- Torn clothing
- Dirty clothing
- Tee Shirts with obscene or offensive text or graphics
- Halter Tops
- Tube Tops
- Bare Midriffs and/or bare backs
- Beach Attire

Conduct in the Workplace

The Company requires its employees to comply with company policies and guidelines regarding conduct in the workplace. Management prohibits and will not tolerate the following conduct in the workplace:

- Sexual harassment or harassment of any kind involving a coworker, manager, client, or vendor.
- Physical or verbal abuse (including the use of profanity) towards a coworker, manager, client, or vendor.
- Causing, creating, or participating in loud or disruptive behavior of any kind during working hours.
- Excessive absence or failure to report to work on time.
- Falsifying company records on your own behalf or on behalf of a coworker, vendor, or client; for example: "punching" time cards for coworkers, falsifying vouchers, etc.
- Failing to obtain permission to leave work for any reason during normal working hours.
- Failing to report to work well groomed and in casual business attire.
- Making or receiving an excessive number of personal telephone calls during working hours.
- Using a cell phone during working hours.
- Using e-mail and/or the Internet for personal business.
- Theft, misuse, or deliberate damage or any Company, coworker or client's funds, vouchers, property, and/or equipment.
- Smoking in smoke-free facilities.
- Violating the Company's substance abuse policy.
- Any other conduct deemed inappropriate by the Company.

IMPORTANT: *It should be noted that the above list is not all-inclusive and the Company reserves the right to determine inappropriate workplace conduct. Violation of any of the above will result in disciplinary action up to and including dismissal.*

E-Mail and Internet Usage

Use of e-mail and the Internet is reserved solely for the conduct of Company business. It may not be used for personal business. *(For detailed information regarding the Company's E-Mail and Internet Policy, please refer Page 35 in this Handbook.)*

Personal Records

The information recorded in your personnel file is extremely important. In order to ensure that the personal data in your file is accurate and up to date, please report

change of name, address, telephone number, marital status, and number of dependents to your manager.

Personnel files are confidential records of the Company. Only authorized personnel or the Payroll Administrator and Senior Management have access to your personnel file. The Company will, however, cooperate with and provide access to your personnel file to law enforcement officials or local, state, or federal agencies in accordance with applicable law.

Smoke-Free Workplace

As part of the Company's commitment to provide a safe and healthful environment for all employees, smoking is prohibited in all facilities. *(For detailed information regarding the Company's Smoking Policy, please refer Page 34 of this Handbook.)*

Substance Abuse

The Company is committed to maintaining a safe, secure, drug-free, and healthful work environment. It prohibits all employees from being under the influence of alcohol, drugs or controlled substances or engaging in alcohol or drug-related activities in the workplace or while conducting off-premises Company business.

On occasion during Company-sponsored functions, senior management may authorize limited consumption of alcoholic beverages on the premises to employees who are legally authorized to consume alcohol.

The Company will not tolerate the unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance or alcoholic beverage in the workplace or while engaged in Company business.

As a condition of employment, you must abide by this policy. Any employee who violates any aspect of this policy may be subject to disciplinary action up to and including dismissal.

Telephone Usage

Occasionally, it may be necessary for you to use the Company's telephone system to place or receive calls for emergency purposes. All incoming and outgoing calls must be kept to a minimum. Excessive personal use of the Company telephone system may result in disciplinary action up to and including dismissal.

The company reserves the right to monitor and/or record all phone conversation to assure service quality.

References

All reference requests should be directed to your manager. Salary history and other information will be verified only if specifically requested in writing and accompanied by

a written authorization from the employee to release requested personal information. Information regarding former employees will be limited to employment dates and title.

VIII. TERMINATION OF EMPLOYMENT

Overview

All employees are "employees at will" and the Company may terminate any employee at any time without notice and with or without cause. Likewise, employees may resign at any time.

If you decide to leave the Company, we ask that you give your Manager at least two (2) weeks written notice. This will allow us to make the necessary adjustments in our operation. The Company, however, retains the right to accept your resignation and departure immediately.

Upon termination of employment, you must return all Company property (for example, your keys, cell phone, headset, etc.). You will also be paid for any unused accrued vacation *(please refer to the Vacation section on Page 14 in this Handbook to determine vacation accrual).* Please note that personal and sick time are not reimbursable.

Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), you may be eligible for continuation of coverage of your group medical and/or dental plans at your own expense. You will receive specific information regarding continuation of coverage via certified U.S.Mail.

Re-Employment

If you should leave the company sometime in the future and you are in good standing when you leave, you will be eligible to be considered for re-employment if and when there is a position available for which you meet the qualifications. If you return to the company after a break-in-service of less than one year, the usual waiting period for new hires will be waived for reinstatement of benefits. If your break-in-service is more than one year, you will be expected to meet eligibility requirements for all benefits as a new employee.

IX. CORPORATE PERSONNEL POLICIES

Equal Opportunity Policy

LawCash is an Equal Opportunity Employer. The Company is committed to the principles of equal employment opportunity for all employees and applicants for employment and complies with both the letter and spirit of all applicable employment laws and regulations.

Employment decisions will be made without regard to race, color, sex, religion, national origin, marital status, age, sexual orientation, citizenship status, physical or mental disability, one's status as a special disabled veteran or veteran of the Vietnam era, or any other basis prohibited by law.

This policy extends to every phase of the employment process including recruiting, hiring, training, promotions, compensation, benefits, transfers, downsizing and Company-sponsored educational, social, and recreational programs. Recognizing the value of diversity, LawCash endeavors to encourage and support a work environment that benefits from the skills and abilities of employees from a wide range of cultural values and traditions.

We expect all of our employees to maintain a professional work environment that is free of unlawful harassment and discrimination.

Questions regarding our policy should be directed to your Manager.

Non-Discrimination and Anti-Harassment Policy

The Company is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the Company expects that all relationships among persons in the workplace will be business-like and free of bias, prejudice, and harassment.

DEFINITIONS OF HARASSMENT

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment - that is, harassment not involving sexual activity or language may also constitute discrimination if it is severe or pervasive and directed at employees because of their

sex (for example, male Manager disciplines only a female employees and not males for excessive telephone usage).

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, age, disability, country of origin or citizenship status, marital status, creed, sexual orientation or any other characteristic protected by law that

- has the purpose or effect of creating an intimidating hostile or offensive work environment;
- has the purpose or effect of unreasonably interfering with an individual's work performance; or
- otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

INDIVIDUALS AND CONDUCT COVERED

These policies apply to all applicants and employees, and prohibit harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the Company (for example, an outside vendor, consultant or customer).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings at clients' locations, and business-related social events.

NON-RETALIATION

The Company prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action.

COMPLAINT PROCEDURE

--REPORTING AN INCIDENT OF HARASSMENT

The Company strongly urges the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to the Company's policy or who have concerns about such matters should file their complaints with their manager, or the Chief Operating Office if the source of the complain is their manager, before the conduct becomes severe or pervasive.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the Company strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The Company will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its staff/employees.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

--INVESTIGATION OF REPORTED ALLEGATIONS

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have their relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

--RESPONSIVE ACTION

Misconduct constituting harassment, discrimination, or retaliation will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to counseling, monitoring of the offender and/or disciplinary action such as warning, reprimand, withholding of promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay or termination, as the Company believes appropriate under the circumstances.

--APPEAL PROCESS

If an employee making a complaint does not agree with its resolution, the employee may appeal to the Chief Operating Officer.

Individuals who have questions or concerns about these policies should to talk with their manager.

Americans With Disabilities Act Policy Statement

LawCash is committed to complying with all applicable provisions of the Americans With Disabilities Act ("ADA"). It is the Company's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job. Consistent with this policy of nondiscrimination, the Company will provide reasonable accommodations to a qualified individual with a disability, as defined by the ADA, who has made the Company aware of his or her disability, provided that such accommodation does not constitute an undue hardship on the Company.

Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should contact their manager. The Company encourages individuals with disabilities to come forward and request reasonable accommodation.

PROCEDURE FOR REQUESTING AN ACCOMMODATION:

On receipt of a written accommodation request, the department head will meet with the employee and his or her Manager to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the Company might make to help overcome those limitations.

The Company will determine the feasibility of the requested accommodation and will inform the employee of its decision on the accommodation request or on how to make the accommodation. If the accommodation request is denied, employees will be advised of their right to appeal the decision by submitting a written statement to the President and CEO explaining the reasons for the request. If the request on appeal is denied, that decision is final.

The ADA does not require the Company to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs etc.).

An employee or job applicant who has questions regarding this policy or believes that he or she has been discriminated against based on a disability should notify their manager. All such inquiries or complaints will be treated as confidential to the extent permissible by law.

Family and Medical Leave Act Policy

LawCash will grant Family and Medical Leave to eligible employees in accordance with the requirements of applicable state and federal laws in effect at the time the leave is granted.

ELIGIBILITY:

To be eligible for family or medical leave, you must have been employed by the Company:

- for at least 12 months;
- have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; ***and***
- work in a location where the Company, within a 75-mile radius, employs at least 50 employees.

REASONS FOR APPLYING FOR A FAMILY AND MEDICAL LEAVE:

The Family and Medical Leave may be used for one or more of the following reasons:

- the birth of the employee's child or to care for the newborn child;
- the placement of a child with the employee for adoption or foster care or to care for the newly placed child;
- to care for the employee's spouse, child, or parent (but not in-law) with a serious health condition; and/or
- the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

NOTE: A "serious health condition" is an injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

REQUESTS FOR FMLA LEAVE:

An employee should request FMLA leave by completing the Request for Leave Form and submitting it to their manager. (Forms are available upon request).

When the leave is foreseeable for childbirth, placement of a child, or planned medical treatment for the employee's or family member's serious health condition, the employee must provide the Company with at least 30 days advance notice, or such shorter notice as is practicable (for example within 2 business days of learning of the need for the leave).

REQUIRED DOCUMENTATION:

When the leave is taken to care for a family member, the Company may require the employee to provide documentation or statement of family relationship (for example, a birth certificate or court document).

An employee may be required to submit medical certification from a health care provider to support a request for FMLA leave for the employee's or a family member's serious health condition. Medical certification forms are available upon request. If the Company has reason to doubt the employee's initial certification, the Company may:

- with the employee's permission, have a designated health care provider contact the employee's health care provider in an effort to clarify or authenticate the initial certification; and/or
- require the employee to obtain a second opinion by an independent Company-designated provider at the Company's expense. If the initial and second certification differ, the Company may, at its expense require the employee to obtain a third, final and binding certification from a jointly selected health care provider.

During FMLA leave, the Company may request that the employee provide recertification of a serious health condition at intervals in accordance with the FMLA. In addition, during FMLA leave, the employee must provide the Company with periodic reports regarding the employee's status and intent to return to work. If the employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the

Company with reasonable notice (that is within 2 business days) of the employee's changed circumstances and new return to work date. If the employee gives the Company notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned.

Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work.

FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Also, a failure to provide requested documentation of the reason for an absence from work may lead to termination of employment.

USE OF PAID AND UNPAID LEAVE:

FMLA provides eligible employees with up to 12 workweeks of unpaid leave. However, if an employee has accrued paid time off (for example vacation or paid personal days), the employee may use any qualifying paid leave first. "Qualifying paid leave" is leave that would otherwise be available to the employee for the purpose for which the FMLA leave is taken. The remainder of the 12 workweeks of leave, if any, will be unpaid FMLA leave. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. This includes leave for disability or workers' compensation injury/illness, provided that the leave meets FMLA requirements. The substitution of paid leave for unpaid leave does not extend the 12-workweek leave period.

DESIGNATION OF LEAVE:

The Company will notify the employee that leave has been designated as FMLA leave. The Company may provisionally designate the employee's leave as FMLA leave if the Company has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA. If the employee has not notified the Company of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify their manager within 2 business days of the employee's return to work that the leave was for an FMLA reason.

MAINTENANCE OF HEALTH BENEFITS:

During FMLA leave an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued to work.

To the extent that an employee's FMLA leave is paid, the employee's portion of health insurance premiums will be deducted from the employee's salary. For the portion of FMLA leave that is unpaid, the employee's portion of health insurance premiums may be paid on the same schedule as payments under COBRA (that is, on the first of each month).

If the employee's payment of health insurance premiums is more than 30 days late, the Company may discontinue health insurance coverage upon notice to the employee.

RETURN FROM FMLA LEAVE:

Upon return from FMLA leave, the Company will place the employee in the same position the employee held before the leave or an equivalent position with equivalent pay, benefits, and other employment terms.

LIMITATIONS ON REINSTATEMENT:

An employee is entitled to reinstatement only if he or she would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other reason, the employee would not be employed at the time job restoration is sought.

The Company reserves the right to deny reinstatement to salaried, eligible employees who are among the highest paid 10 percent of the Company's employees that are employed within 75 miles of the worksite ("key employees"), if such denial is necessary to prevent substantial and grievous economic injury to the Company's operation.

FAILURE TO RETURN TO WORK FOLLOWING AN FMLA LEAVE:

If the employee does not return to work following the conclusion of FMLA Leave, the employee will be considered to have voluntarily resigned. The Company may recover health insurance premiums that the Company paid on behalf of the employee during any unpaid FMLA leave except that the Company's share of such premiums may not be recovered if the employee fails to return to work because of the employee's or family member's serious health condition or because of other circumstances beyond the employee's control. In such cases, the Company may require the employee to provide medical certification of the employee's or the family member's serious health condition.

Contact your manager for further information or clarification about the FMLA leave.

E-Mail and Internet Policy

Company equipment (such as the computer system, e-mail and access to the Internet) is to be used for business purposes only. To ensure that all employees are using Company e-mail and the Internet in a responsible manner, the following policies have been established:

- Use of the Company's computer system (including e-mail and the Internet) is reserved solely for the conduct of Company business. It may not be used for personal business.

- The e-mail system is Company property. All messages composed, sent, or received on this system are and remain the property of the Company. They are not the private property of any employee and may be disclosed within the Company without the permission of the employee who composed or received them.

- The Company reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent over the e-mail and Internet systems for any purposes. By using the Company's e-mail and Internet systems, the employee recognizes the rights of the Company and consents to them.

- The e-mail system is not to be used to create any offensive or disruptive messages or to circulate jokes, comics, or non-job related computer graphics. (For example messages which contain sexual implications, racial slurs, gender-specific comments, or any other comment that violates the Company's Equal Opportunity or Anti-Harassment policies.)

- The Company's policies against sexual or other harassment or discrimination apply fully to the e-mail and Internet systems.

- This system should not be used to send (upload) or receive (download) copyrighted materials, proprietary information, or similar materials without prior authorization.

- The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read it.

Any employee who violates this policy and uses the Company's computer systems (including e-mail and the Internet) for improper purposes is subject to disciplinary action up to and including dismissal.

Non-Smoking Policy

In order to comply with government regulations, the Company has prohibited smoking in all of its worksites.

This policy apples to all employees, applicants, contractors, consultants, and visitors and will be strictly enforced.

Any employee who has a concern about smoking in his or her work area should take the following steps:

- Discuss concerns with his or her manager; and

- In cases of unresolved conflict, contact your manager. Your manager will investigate the situation and resolve the matter with the management of the department. In resolving any such disputes arising under this Smoking Policy, the health concerns of the employee desiring a smoke-free area will be accorded priority.

Any employee or applicant for employment who exercises or attempts to exercise any rights granted under this policy and applicable law will be protected from retaliatory action or from being subjected to any adverse personnel action for exercising or attempting to exercise his or her rights under the smoking policy. Suspected retaliatory action should be reported immediately to your manager, who will then investigate the matter and take appropriate steps to redress any such action.

Failure to comply with this policy may result in disciplinary action, up to and including termination.

Any questions regarding the smoking policy should be directed to your manager.

X. PERFORMANCE IMPROVEMENT POLICY

Policy:

LawCash promotes an open atmosphere and provides a policy based on a system of progressive notification to employees to correct deficiencies in their performance.

Scope:

All permanent full-time and part-time LawCash employees.

Guidelines:

1. Basic Intent
   a. Mutual Responsibility for Performance Goals: This policy encourages an atmosphere of mutual responsibility on the part of both management and employees for attaining the highest possible level of performance.
   b. Improvement of Performance Deficiencies: This policy clarifies that employees are expected to correct performance deficiencies for the balance of their employment, not just, for a specific period of time such as is outlined in a performance reminder.

2. Differentiation from Acceptable Conduct Policy
   LawCash establishes and maintains standards of employee conduct which are to be distinguished from the standards that govern job performance. Conduct covers employee actions that are behavioral in nature, whereas performance relates to the execution of assigned duties and responsibilities. Serious violation of Company or departmental rules may constitute misconduct for which an employee may be immediately suspended pending a complete investigation. Reference Acceptable Conduct for additional information regarding infractions considered misconduct and alternative management actions.

3. Mutual Responsibility
   a. Management Responsibilities: Management is responsible for determining systemic factors that affect individual performance and for establishing performance expectations and standards for acceptable conduct within the corporate environment. Management also is responsible for communicating those standards to employees and providing feedback through performance evaluation and, when necessary, reminders of deficiencies. Management is encouraged to consider all available options to correct problem situations in addition to the procedures specified in this policy. This includes conducting performance reviews more often than the required annual performance review when an employee's performance deficiency requires it.
   b. Employee Responsibilities: As responsible adults, employees are accountable for developing personal action plans in coordination with their management to resolve deficiencies. Also, employees are responsible for reviewing all available rules, policies, and procedures and for familiarizing themselves with this information.

4. Performance Problem Defined
   A performance problem is the persistent failure to perform assigned duties or to meet prescribed standards. Management is responsible for identifying performance failures and for providing feedback to the employee.

5. Recurrent Performance Problem Patterns
Employees must understand that recurrent patterns of performance deficiencies are noted and cannot be tolerated. An employee's entire performance history is reviewed and taken into consideration when evaluating recurring patterns of performance deficiencies. Management should consider the relative nature of all infractions for the purpose of taking corrective actions. A reminder may affect an employee's eligibility to apply for some positions. Issuance of a performance reminder for a deficiency that has been addressed previously through Performance Improvement can result in more severe action up through termination of employment.

6. Evaluation of Problem/Action
   a. Contributing Factors: If an employee has a performance problem, the following factors should be considered before taking any remedial actions:
      - Evaluate the appropriateness of orientation, training, or accommodations provided the employee.
      - Review previous counseling sessions to determine if the employee understood the nature of the deficiencies.
      - Ensure that the noted deficiencies are not a result of some systemic failure (e.g., tools, equipment, scheduling, prescribed methods).
      - Consult with the employee to determine if any recent dramatic or traumatic events have transpired.

   b. Determination of Actions: If it becomes apartment that the performance deficiency is not a result of any of the factors above, the following performance factors should be considered in determining appropriate actions:
      - Severity of offense
      - Employee's previous work record
      - Previous actions for similar offenses within workgroup
      - Manager's judgment about what action would be more effective in bringing about a change in the employee's performance such as conducting performance reviews more than once every twelve (12) months as required.

   c. Counseling: Counseling is an open discussion between the manger and the employee to identify the deficiency, clarify management's expectations, determine possible solutions, and establish follow-up parameters.
   d. Reminders: Reminders are normally not warranted unless the same or a similar deficiency has occurred on at least two or more occasions within the last twelve (12) months, or if the severity of the deficiency warrants a reminder. Management is expected to review thoroughly the circumstances surrounding any incident to determine whether a reminder of performance deficiency is warranted. When evaluating a performance issue, management may always reference an employee's past performance.

The reminder must include the following:
- Date of deficiency or incident

- Policy violated (A copy of the violated policy should be attached to the reminder)
- The facts supporting the deficiency
- The actions plan jointly developed to correct the problem and signed by the manager and the employee. (The actions should be actions that will logically correct the problem)
- An established follow-up date

ACKNOWLEDGEMENT AND RECEIPT OF THE EMPLOYEE HANDBOOK

This is to acknowledge that I have received a copy of the LawCash's Employee Handbook and understand that it sets forth the terms and conditions of my employment.

I also acknowledge that my employment relationship with the Company is "at will". I acknowledge that this means that I may terminate my employment at any time, with or without cause or notice, and that the Company retains the right to terminate my employment at any time, with or without cause or notice.

I further acknowledge that no verbal or written statements or representations regarding my employment can alter the foregoing and that no manager or employee has the authority to enter into a contract of employment express or implied, which changes the "at-will" employment relationship. Only the President and CEO has the authority to enter into an employment agreement that alters the "at-will" employment relationship and such agreement must be in writing.

In addition to the above, I acknowledge that none of the Company's personnel documents or benefit plans, including this Handbook, constitute, or is intended to constitute, an express or implied contract of employment, or is intended to create any contractual obligations with respect to any matters these documents cover. The Company reserves the right to revise, delete and add to the provisions of this Handbook, or any other personnel-related document, without advance notice.

EMPLOYEE'S NAME: _____
(PLEASE PRINT):

EMPLOYEE'S SIGNATURE: _____

DATE: _____

PLEASE SIGN AND DATE THE ABOVE ACKNOWLEDGEMENT AND RETURN IT TO YOUR MANAGER WHERE IT WILL BE INCLUDED IN YOUR PERSONNEL FILE.

EXHIBIT F

JAMS

SCOTT SIDELL, Claimant, -against- STRUCTURED SETTLEMENT INVESTMENTS, LP, STRUCTURED SETTLEMENTS, LLC, (f/k/a Lawcash Structured Settlements, LLC), SSI-GP HOLDING, LLC, PLAINTIFF FUNDING HOLDINGS, INC. (d/b/a "LawCash"), PLAINTIFF FUNDING CORPORATION, RICHARD PALMA, HARVEY HIRSCHFELD, SELIG ZISES, DENNIS SHIELDS, JASON YOUNGER, and MARC WALDMAN, Respondents.	Reference No.: 1425000992

CLAIMANT'S MOTION FOR SANCTIONS

I. INTRODUCTION

The Claimant, Scott Sidell ("Sidell"), hereby moves for sanctions based on the improper conduct of Respondents and their lawyers; in particular 1) their intentional, deliberate unauthorized access to and theft of Sidell's personal e-mails, including his obviously privileged communications with his lawyers; 2) their failure to timely and properly disclose their unauthorized monitoring of Sidell's personal Yahoo account; 3) their improper use of Sidell's personal e-mails; and 4) their failure to fully disclose and produce Sidell's personal e-mails even after they disclosed their improper access. As

remedy for this conduct, Sidell seeks sanctions including: 1) dismissal of the Counterclaim filed by Respondents; 2) disqualification of Respondents' counsel, Attorney John Crossman and his firm, Zuckerman, Gore & Brandeis, LLP ("ZGB"); and 3) legal fees relating to the unauthorized access of Sidell's e-mails, including but not limited the costs associated with responding to the Counterclaim, discovery requests concerning the e-mails, and this Motion.

Respondents have admitted that they improperly accessed and monitored Sidell's personal Yahoo account after he was terminated on August 24, 2007, yet they did not disclose this information for six months, until January 18, 2008, the same date Arbitrator Miller issued the Protective Order. At some point these communications were provided to Respondents' counsel, who not only violated their clear ethical obligations by failing to immediately disclose their possession of this improperly obtained, and in some cases privileged, information but also used the information to support their claims against Sidell. Furthermore, the Respondents have refused to give a full accounting of the e-mails they accessed in Sidell's Yahoo account. As more fully set forth below, this is clearly sanctionable conduct and the only appropriate sanctions are dismissal of the Counterclaim, disqualification of counsel and an award of costs.

II. BACKGROUND

Sidell was the CEO for Structured Settlement Investments, LP when it was acquired by Plaintiff Funding Holding, Inc. d/b/a LawCash on September 6, 2006.[1] Contemporaneous with this acquisition, Sidell executed an Employment Agreement (the "Employment Agreement") with Respondents that provided, among other things, that any dispute arising under its provisions must be pursued in Arbitration.

[1] SSI and PFH are collectively referred to as LawCash.

On August 24, 2007, Respondents informed Sidell that they were terminating his employment effective immediately for reasons that were clearly false. However, subsequent to his termination, Respondents sent Sidell a formal termination letter from Attorney Crossman and ZGB, in which Respondents offered wholly different reasons for his termination than those offered on August 24, 2007.

A. **Arbitration**

On October 18, 2007, Sidell, through Attorney Richard J. Rabin, filed a Statement of Claim and Demand for Arbitration with JAMS Dispute Resolution ("JAMS") in New York City, pursuant to the terms of the Employment Agreement. On November 14, 2007, the Respondents, through ZGB, filed a Counterclaim, Responses and Affirmative Defenses with JAMS. In their Counterclaim, the Respondents asserted new, additional grounds to dismiss Sidell for Cause, including alleged breaches of Sidell's fiduciary duties to SSI. The Counterclaim was the first instance in which many of these reasons for termination were raised.

B. **Unauthorized Access to Sidell's Personal E-Mails**

During his employment, Sidell had two e-mail accounts, a personal Yahoo e-mail account and an Outlook e-mail account, the latter of which was provided by his employer and which Sidell used for business purposes. At no time had Sidell authorized any of the Respondents to access his personal Yahoo e-mail account and he never provided them with his password.

Following his termination, Sidell continued to use his personal Yahoo e-mail from his home, to communicate with, among others, attorneys concerning his termination; these communications were to both Attorney Rabin of Akin, Gump, Strauss, Hauer &

Feld, LLP and Attorney Richard S. Corenthal of Meyer, Suozzi, English & Klein, P.C. (See Affidavit of Richard S. Corenthal, Esq. ("Corenthal Aff."), ¶5)(Attached hereto Exhibit A).

In some of these e-mails, Sidell refuted in detail the allegations made by LawCash, and discussed his legal strategy concerning any potential arbitration and/or employment claims against some or all of the Respondents. (Corenthal Aff. ¶5). Unbeknownst to Sidell, the Respondents were monitoring Sidell's personal e-mail account by intercepting, opening, reading and retaining copies of Sidell's e-mail communications, including his personal, privileged attorney-client e-mails.

Shortly after Sidell's termination, Scott Yucht ("Yucht"), LawCash's Chief Information Officer, searched the computer Sidell had been using at work and discovered he could access Sidell's Yahoo personal e-mail account. (Corenthal Aff. ¶¶ 5, 6; Affidavit of Scott Yucht ("Yucht Aff.") ¶9)(Attached hereto as Exhibit B). Yucht then examined Sidell's Yahoo account from LawCash's Brooklyn office and remotely monitored ongoing e-mail communications to and from Sidell, despite the fact that Sidell was accessing his Yahoo account from his home. (Id.). Yucht claims that he was able to access the account because Sidell left the Yahoo account "active" by presumably checking a box that kept Sidell "signed in" for a period of up to two weeks. (Id. ¶ ¶9, 11) Yucht admits that he "reviewed the emails from the open Yahoo account and forwarded them to LawCash, as I believed they were relevant to the operations of the company." (Id. ¶ 10)

C. Use and Disclosure of Sidell's E-mails

Although Sidell's e-mails were accessed in August 2007 and the Arbitration was commenced in October 2007, it was not until January 18, 2008, that the Respondents finally revealed that they had monitored Sidell's personal Yahoo account, producing the Yucht Affidavit and limited e-mails between Sidell and his lawyers.[2] (Corenthal Aff. ¶5). Not coincidentally, **this disclosure occurred the exact same date the Arbitrator issued a Protective Order, even though Yucht's Affidavit was executed on November 14, 2007, some 2 months earlier**. (Corenthal Aff. ¶ 5; See generally Yucht Aff.).

The limited e-mails that were produced (attached as Exhibit C) are clearly attorney-client communications and appear to be redacted (several of the e-mails do not have headings which would typically identify the sender, recipient(s), dates and subject.) [3] It now appears that the redactions were calculated to conceal when Respondents and/or ZGB came into possession of the e-mails and/or who else may have received the e-mails.

The attorney-client nature of the communications is indicated by the following:

- The first sentence of an e-mail states "I have gathered together the relevant docs and info to hopefully provide you with the required evidence to make an informed decision about my case." (Emphasis added). The e-mail goes on at length to refute the proffered reasons for Sidell's termination. (SSI 0636)

- Discussions concerning whether Attorney Rabin or his firm might have a conflict in representing Sidell. (SSI 0624)

[2] This disclosure was made simply by producing, with many other documents, the Yucht Affidavit and the attorney-client emails. Respondents did not produce any other e-mails other than the limited, redacted attorney-client communications and they have refused to produce other e-mails in response to direct discovery requests from Sidell. The Respondents' objection stems from their position that, inter alia, JAMS lacks authority over this issue and because Respondents did not agree to arbitrate this issue.

[3] In what can only be characterized as the height of hypocrisy, the Respondents marked the limited, redacted attorney-client e-mails that they did produce as "Confidential".

- Partially redacted e-mail (SSI 0622) shows only Attorney Rabin's name on the heading, but it clearly states "Rich Rabin rrabing@AkinGump.com" (the e-mail does not indicate whether Attorney Rabin is the sender or recipient or indicate the date or subject).[4]

- One of the un-redacted communications (SSI 0642) is electronically signed "Richard J. Rabin, Esq."

- The bottom of each of Attorney Rabin's e-mails contain the following instruction to unauthorized and/or unintended recipients of his communications:

  > The information contained in this e-mail message is intended for the personal and confidential use of the recipient(s) named above. If you have received this communication in error, please notify us immediately by e-mail and delete the original message. (See SSI 0626);

- On dated March 14, 2008, Respondents produced a retainer agreement (the "Retainer Agreement") dated August 28, 2007 between Sidell and a lawyer concerning a highly confidential action that is completely unrelated to the Respondents, the Arbitration or Sidell's employment. (See Exhibit D).

Once Sidell's lawyers became aware of the unauthorized access of Sidell's Yahoo account, they immediately demanded return of all printed and electronically stored copies of the e-mails. (Corenthal Aff. ¶5). In Order No.3, Arbitrator Miller noted that "claimant reserved all his rights regarding information obtained from the personal Yahoo account." The unauthorized e-mail access was also addressed in Orders No. 4 and 6, which discuss production of the attorney-client e-mails. Further, Attorney Corenthal promptly proffered discovery requests dated February 15, 2008, specifically seeking additional information concerning the e-mails. (See Claimant's Discovery Requests; attached as Exhibit E). However, ZGB responded with objections asserting, inter alia, that their clients did not consent to arbitrate this issue, that the e-mails were irrelevant, and that the issue was

[4] Akin Gump has over 1,000 lawyers and is one of the largest law firms in the world and certainly should be readily identified as a law firm by any New York City lawyer, such as Attorney Crossman and ZGB, as well as by non-lawyers who work with the legal field, such as the Respondents.

beyond the jurisdiction of this Arbitration. (See letter from Attorney Welzer dated February 25, 2008, attached as Exhibit F) To date, Respondents and ZGB have refused to identify how many e-mails were intercepted and/or reviewed, the individuals who reviewed the e-mails, or to identify or produce any non-attorney-client e-mails.

The conduct of ZGB in the Arbitration, including the allegations in the Counterclaim and the statements in Yucht Affidavit, make it apparent that they had information gleaned from Sidell's personal Yahoo account, if not the e-mails themselves, long before the unauthorized access was disclosed to Sidell.

For example, the Counterclaim asserts that "after his termination, Sidell stole sensitive, confidential and proprietary information about SSI's business and customers and used that information in violation of the restrictions contained in the Employment Agreement." The basis for this allegation, which Sidell vigorously disputes, was further revealed in Respondents SSI and PFH's counterclaim filed in a pre-judgment remedy action in support of this Arbitration, which Sidell commenced in federal court for the District of Connecticut (the "PJR Action"). In the PJR Action, the defendants (also represented by ZGB) filed a Counterclaim and supporting Declaration of Richard Palma (attached hereto as Exhibit G). Both the PJR Counterclaim and the Palma Declaration state that Sidell sent confidential, proprietary data to himself on his personal Yahoo account.[5] (See ¶¶35-36 of the Palma Declaration). This demonstrates that the Respondents and their attorneys have used information from Sidell's Yahoo account to defend and prosecute claims in both the Arbitration and the PJR Action.

[5] The Sidell e-mails referenced in the Counterclaim and the Palma Declaration have not been produced to Sidell.

The PJR Counterclaim and the Palma Declaration both reveal that ZGB was aware of and used the unauthorized e-mail access, and likely the attorney-client communications, at least by November 2007, when they filed the same, though less descriptive, allegation in their Counterclaim in the Arbitration. This is buttressed by the Yucht Affidavit which is dated November 14, 2007, bears the caption of this Arbitration and was presumably prepared by or at the behest of ZGB.

III. LAW

A. It is Undisputed that Attorney-Client Communications are Absolutely Privileged

Under New York law, communications between an attorney and a client in the course of professional employment for the purpose of obtaining legal advice are privileged and not discoverable unless the privilege is deemed to have been waived by the client. Spectrum Systems International Corporation v. Chemical Bank, 78 N.Y.2d 371, 377 (1991). CPLR § 4503 recites, in pertinent part, that "unless the client waives the privilege, an attorney or his or her employee, or any person who obtains without knowledge of the client evidence of a confidential communication made between the attorney or his or her employee and the client in the course of professional employment, shall not disclose, or be allowed to disclose such communication, nor shall the client be compelled to disclose such communication, in any action ..." CPLR § 4548 extends the attorney client privilege to e-mail communications.

As the New York Court of Appeals set forth in Spectrum Systems, supra at 814, "CPLR § 4503(a) states that a privilege exists for confidential communications made between attorney and client in the course of professional employment, and CPLR § 3101(b) vests privilege matter with absolute immunity." In order for the privilege to

apply, the communication from attorney to the client must be made for "the purpose of facilitating the rendition of legal advice or services, in the course of a professional relationship." Rossi v. Blue Cross & Blue Shield of Greater New York, 73 N.Y.2d 588, 542 (1989).

B. Ethical Obligations Attach Upon Receipt of Attorney-Client Communications.

Under New York's rules of ethics, when an attorney receives privileged attorney-client communications, he is obligated to refrain from viewing them, and to either immediately return them to opposing counsel, or, notify opposing counsel that he has them so that counsel can take the appropriate steps to protect the communications.

Formal Opinion 2003-04 of the Association of the Bar of the City of New York (the ABCNY) states that:

> **A lawyer who receives a misdirected communication containing confidences or secrets should promptly notify the sender and refrain from further reading or listening to the communication, and should follow the sender's directions regarding destruction or return of the communication.** However, if there is a legal dispute before a tribunal and the receiving attorney believes in good faith that the communication appropriately may be retained and used, the receiving attorney may submit the communication for in camera consideration by the tribunal as to its disposition. Additionally, the receiving attorney is not prohibited as an ethical matter from using the information to which the attorney was exposed before knowing or having reason to know the communication was inadvertently sent. **However, it is essential - as an ethical matter - that the receiving attorney promptly notify the sending attorney of the disclosure in order to give the sending attorney a reasonable opportunity to promptly take whatever steps he or she feels are necessary.**

(Emphasis added.)

Similarly, the New York County Lawyers Association Ethics Opinion Number 730 provides that:

> If a lawyer receives information which the lawyers knows or believes was not intended for the lawyer and contains secrets, confidences, or other privileged matter, the lawyer upon recognition of same, shall, **without further review or**

other use thereof, notify the sender and (insofar as it shall have been in written or other tangible form) **abide by sender's instructions** regarding return or destruction of the information.

In Galison v. Greenberg, 799 N.Y.S.2d 160 (2004)[6], the Court looked to the opinions of the Association of the Bar of the City of New York, and the New York County Lawyers Association on this issue, and noted that both organizations arrive at the same conclusion as to an attorney's obligation in such a scenario:

> when receiving a communication or e-mail which the lawyer knows or should reasonably know contains privileged material, the attorney is obligated to 'promptly notify the sending attorney' thereof, to refrain from further review of the communication, and to return or destroy it if so requested. **Counsel should be aware of their obligations in these circumstances, and promptly adhere to them, in order to avoid sanctions.**
>
> (Emphasis added.)

Accordingly, an attorney's obligations regarding the treatment of privileged communications that come into his or her possession are clear; the attorney is obligated to promptly return them to the sending attorney, or promptly notify the sending attorney so that protective measures may be taken.

C. Remedies for Violations of the Attorney-Client Privilege

As the court notes in Galison v. Greenberg, counsel is charged with knowledge of his ethical obligations and must promptly adhere to their ethical obligations in order to avoid sanctions. Sanctions are also authorized under JAMS Rule 29. In some cases, appropriate sanctions will result in excluding the privileged information, as well as any other misappropriated information that may have been derived from a privileged source. In Re Beiny, 129 A.D. 2d 126, 142 (1st Dept. 1987); Surgical Design corp. v. Correa, 21 A.D.3d 409 (2nd Dept. 2005). However, where simply excluding the privileged

[6] Significant cases and ethics opinions are supplied under separate cover.

information will not suffice to return the aggrieved party to the status quo ante, courts have resorted to other remedies, including disqualification of counsel and dismissal of claims.

For example, courts have found that in some cases the only way to make an aggrieved party whole is to **disqualify counsel**, particularly where they have made use of privileged materials, so as to provide the aggrieved party with a full and complete remedy. Richards v. Jain, 168 F. Supp. 2d 1195 (W.D. Wash. 2001). In Richards v. Jain, supra, the District Court disqualified the plaintiff's law firm when they had access to privileged materials for 11 months without disclosing such access or ceasing review of the materials. The materials in that case, as in the instant case, had not been inadvertently disclosed but taken without authorization. In disqualifying counsel, the Court noted that:

> [w]here the asserted course of conduct by counsel threatens to affect the integrity of the adversarial process, the court should take appropriate measures, including disqualification, to eliminate such taint. In considering disqualification courts must be mindful that the interests of the clients are primary, and the interests of the lawyers are secondary.

Id., supra at 1299 (citations omitted.)

The Court concluded that disclosure of the privileged information could not be undone, particularly after the passage of time and the use to which the information at issue had been put. The Court also found that the unethical conduct of a non-lawyer (a paralegal), should be imputed to the lawyers, particularly given the close interaction between the paralegal and the lawyers. Accordingly, disqualification was required to remove any taint on the process. Id. "Where such an impropriety is clear, affects the public view of the judicial system or the integrity of the court and is serious enough to

outweigh the parties' interest in counsel of their own choice, disqualification is justified." Id. at 1203.

Courts have found that disqualification of counsel is also appropriate even where the privileged information is not possessed by the attorneys. In US v. SAE Civil Construction, Inc., 1996 WL 148521 (D. Neb.), the District Court disqualified plaintiff's counsel after they retained a former employee of defendant as a consultant, resulting in the disclosure of confidential information. The Court held disqualification of the attorneys was appropriate even where it was the consultant who possessed the confidential information. "It is of little importance that the harborer of the confidential information is not an attorney or a member of a firms' non-attorney support staff." Id.

Where there is serious prejudice to the affected party, as in the instant case, which cannot be remedied by less drastic measures, **dismissal of the claim** is appropriate. Lipin v. Bender, 84 N.Y.2d 562 (1994). In Lipin, the plaintiff deliberately took defendants' attorney client communications and shared the contents with her lawyer, who then used the information in settlement discussions and papers filed with the court. The trial court stated that it had no alternative but to dismiss the case, since "otherwise, there is no meaning to privilege, there is no meaning to conduct among attorneys and there is no rule of law." Id. at 568. The Appellate Court upheld dismissal of the action based on the actions of counsel and the client, noting that:

> Clearly neither suppression of the documents nor suppression of the information was a realistic alternative. **Nor would disqualification of plaintiff's counsel have ameliorated the prejudice in that the wrongdoing and the knowledge were the client's own, which she would carry into any new attorney-client relationship.**

Id. at 572-73. (Emphasis added.)

III. ARGUMENT

A. It is Undisputed that Respondents Improperly Accessed Sidell's Attorney-Client E-mails and Counsel Did Not Notify Sidell of Said Access for Six Months

As admitted in the Yucht Affidavit and the disclosed e-mails, the Respondents intentionally accessed Sidell's e-mails, including his privileged attorney-client communications. Further, there is no question that the e-mails between Sidell and his lawyers were privileged attorney-client communications and that Respondents were not authorized to review said communications. Even the most cursory review of the e-mails indicates that they were sent for the purpose of seeking and providing legal advice in the course of a professional relationship.

The Respondents did not disclose to Sidell that they had accessed his e-mails until they produced the Yucht Affidavit and Sidell's limited attorney-client e-mails on January 18, 2008, some six months after the e-mails were initially accessed by Yucht.

B. Attorney Crossman and ZGB Violated Their Ethical Obligations in Failing To Immediately Return Sidell's Attorney-Client Communications and in Using the Information Therein to Respondents' Advantage.

Pursuant to Galison v. Greenberg, supra, ZGB violated their ethical obligations in failing to immediately return the attorney-client communications, or at a minimum notifying Sidell's counsel that they were in possession of the communications so that Sidell could take appropriate action, including seeking a protective ruling from the Arbitrator. Instead, counsel failed to take any action other than using the e-mails to Respondents' advantage and Sidell's detriment in the Arbitration.

These actions are all the more egregious given the passage of nearly six months between the interception of the e-mails and their disclosure by counsel. Further, there is

good reason to believe that counsel was aware of the e-mails long before they were disclosed in January, 2008. Since Attorney Crossman and ZGB issued Sidell's termination letter dated August 24, 2007, it would seem that they likely would have acquired the e-mails or at least been informed of the inappropriate access contemporaneous with Respondents' unauthorized access to Sidell's Yahoo account in late August 2007.

At a minimum, ZGB had Sidell's e-mails and information therein by November 2007, when they filed the Counterclaim and presumably secured Yucht's Affidavit. This Counterclaim, dated November 14, 2007, which was also filed by ZGB, is premised on facts gleaned from unauthorized access to Sidell's personal e-mails. The Counterclaim erroneously asserts that "after his termination, Sidell stole sensitive, confidential and proprietary information." The Respondents elaborated on this allegation in the PJR Action, in which they allege Sidell sent the proprietary information to his personal Yahoo account. (See ¶¶35-36 of the Palma Declaration). Thus the allegation could only be based on information from unauthorized access to Sidell's Yahoo account.

Yucht's affidavit, which bears the caption of this action and is dated November 14, 2007, clearly indicates that it was prepared for this action, by or at the direction of counsel, and further establishes that ZGB was aware of the unauthorized e-mail access and used information therein to the advantage of the Respondents and Sidell's detriment at least by November 2007; long before ZGB disclosed it to Sidell.

Even if counsel believed that they were somehow entitled to keep and review the communications, counsel was obligated to immediately notify Sidell's counsel so that Sidell could seek a ruling from the Arbitrator or some other authority and protect his

privileged communications from further use and disclosure. Because the Respondents have in fact admitted that this Counterclaim allegation stems from Sidell's personal e-mails, there can be no question that the information contained in the e-mails has been used to Sidell's detriment and that no remedy save for dismissal of the Counterclaim can remedy this injustice.

Accordingly, ZGB improperly used information from Sidell's Yahoo account to defend and prosecute claims in both the Arbitration and the PJR action, for at least 2 months before disclosing to Sidell the unauthorized access and/or the possession of attorney client e-mails. This is clearly sanctionable conduct.

D. Respondents Have Improperly Refused to Fully Disclose their Access to and Use of Sidell's E-Mails.

Despite Sidell's persistent efforts, the Respondents and ZGB have flatly refused to disclose the extent of their access to Sidell's Yahoo account. The Respondents have only produced the limited, redacted e-mails between Sidell and his lawyers. Even obtaining this limited disclosure required repeated entreaties to the Arbitrator and was the subject of two Orders. The Respondents have not produced any other e-mails from Sidell's account or indicated who else may have reviewed the e-mails. They have also refused to respond to Slidell's discovery requests on the issue.

F. Given the Egregious Conduct of Respondents and Counsel, The Only Appropriate Remedies Are Dismissal of the Counterclaim and Disqualification of Counsel

The conduct of Respondents and ZGB are subject to sanction. Although one possible sanction is to order to the return of all privileged information, the lengthy delay between the acquisition of the communications and their disclosure, as well as their detrimental use in this Arbitration clearly demonstrates that this is not an appropriate

remedy and will not prevent prejudice to Sidell. Richards v. Jain, supra, 168 F. Supp. 2d at 1200.

Restoring any privilege to the documents will not undo the wrong to Sidell. This is particularly true where counsel and their clients have already used the documents in this Arbitration to their advantage and the detriment of Sidell. Indeed the damage has already been done and what remains is how to restore fairness to these proceedings and justice to Sidell.

> A reasonable member of the bar or the public would share ... the nagging suspicion that plaintiffs' trial preparation and presentation of their case had benefited from confidential information obtained from [confidential communications]. The dynamics of litigation are far too subtle, the attorney's role in that process is far too critical, and the public's interest in the outcome is far too great to leave room for even the slightest doubt concerning the ethical propriety of a lawyer's representation in a given case. **The disclosure of privileged information cannot be undone in these circumstances.**

Richards v. Jain, supra. (Emphasis added.)

Here, where Sidell's e-mails were taken by the intentional, deliberate actions of Respondents, concealed for several months, and used in the Counterclaim, dismissal of the Counterclaim is required, particularly since exclusion will not remove the taint of bad conduct by Respondents or ZGB. Therefore, the most appropriate sanction is dismissal of the Counterclaim and disqualification of counsel.

This is particularly true because, much like in Lipin v. Bender, supra, 84 N.Y.2d 562, the wrongful conduct was perpetrated by the client as well as the lawyer. Dismissal of the Counterclaim alone is an insufficient remedy since it was asserted based on ill-gained information possessed by the client, and this knowledge will remain with the client. Moreover, even if ZGB is disqualified, which is appropriate, the Respondents, who possess the wrongfully obtained information, will merely carry it with them into any

new attorney-client relationship. Accordingly, the Arbitrator should dismiss the Counterclaim, disqualify Attorney Crossman and ZGB as counsel and award Sidell costs, including but not limited the costs associated with, responding to the Counterclaim, discovery requests concerning the e-mails, and this Motion.

IV. CONCLUSION

For all of the foregoing reasons the Arbitrator should dismiss the Counterclaim, disqualify ZGB as counsel and award costs to Sidell.

Dated: Milford, Connecticut
July 17, 2008

FOR THE CLAIMANT, SCOTT SIDELL,

By: _____

Russell A. Green
Hurwitz, Sagarin, Slossberg & Knuff, LC
147 N. Broad Street
Milford, Connecticut 06460
Telephone: (203) 877-8000
Facsimile: (203) 878-9800
E-Mail: rgreen@hssklaw.com

EXHIBIT A

JAMS DISPUTE RESOLUTION

----------X

SCOTT SIDELL,

Claimant,

STRUCTURED SETTLEMETN INVESTMENTS, L.P., STRUCTURED SETTLEMENTS, LLC (f/k/a LawCash Structured Settlements, LLC), SSI-GP HOLDING, LLC, PLAINTIFF FUNDING HOLDINGS, INC. (d/b/a "Law Case"), PLAINTIFF FUNDING CORPORATION, RICHARD PALMA, HARVEY HIRSCHFELD, SELIG ZISES, DENNIS SHIELDS, JASON YOUNGER, and MARC WALDMAN

Respondents.

----------X

Reference # 1425000992

AFFIDAVIT OF RICHARD S. CORENTHAL

Richard S. Corenthal, being duly sworn, deposes and states as follows:

1. I am an attorney duly admitted to practice law in the State of New York and a member of Meyer, Suozzi, English & Klein, P.C., former attorneys for the Claimant Dr. Scott Sidell in this proceeding. I am fully familiar with the facts and circumstances herein except for matters wherein I state that they are based upon information and belief.

2. Upon information and belief, Dr. Sidell initially retained Richard J. Rabin, Esq. of Akin, Gump, Strauss, Hauer & Feld, LLP after Respondents terminated his employment on or about August 24, 2007. I was subsequently retained by Dr. Sidell as Mr. Rabin's co-counsel.

3. During the initial period between the termination of Dr. Sidell's employment by Respondents and the commencement of this Arbitration proceeding, I had no direct communications with Respondents' attorneys, Frank Welzer, Esq. and John Crossman, Esq. of the law firm Zuckerman, Gore & Brandeis, LLP.

4. Upon information and belief, Mr. Rabin communicated directly with Respondents' attorneys on behalf of Dr. Sidell prior to the commencement of this Arbitration proceeding. Mr. Rabin withdrew as counsel for Dr. Sidell after the commencement of this

proceeding and I continued to represent Dr. Sidell in this proceeding until I was replaced by Russell A. Green, Esq. in or about April, 2008.

5. While I represented Dr. Sidell in this Arbitration proceeding, Respondents' produced their initial discovery and document production on or about January 18, 2008, which is the same date that the Protective Order in this proceeding was signed by Arbitrator Miller. Our review of Respondents' documents production indicated that Respondents accessed and opened Dr. Sidell's private emails from his personal email account without authorization, including attorney-client communications directly related to Dr. Sidell's claims in this proceeding. These attorney-client communications concerned Dr. Sidell's claims, defenses, retention of counsel and advice by Dr. Sidell's counsel. I promptly served a Supplemental Document Request seeking copies of all emails and materials accessed by Respondents from Dr. Sidell's personal email account. I also requested that Respondents' counsel immediately return all copies and originals of Dr. Sidell's private emails, including attorney-client communications, including both printed and electronically stored copies.

6. Respondents' accessing of Dr. Sidell's private emails was described in an affidavit produced by Respondents in discovery, which was produced on or about January 18, 2008. The affidavit was signed by Scott Yucht who was identified as the Chief Information Officer of Lawcash.

7. Prior to Respondents' production of the attorney-client emails in or about January 2008, Respondents' counsel never notified me that they or their clients were in possession of Dr. Sidell's private emails, including attorney-client communications.

Richard S. Corenthal

Richard S. Corenthal

Sworn to before me this 15th day of July, 2008

Notary Public

MARGARITA DEJESUS CUEVAS
Notary Public, State Of New York
No. 01DE6061968
Qualified In Nassau County
Commission Expires July 23, 20 09

EXHIBIT B

IN ARBITRATION BEFORE JAMS

NEW YORK, NEW YORK

SCOTT SIDELL,

Claimant,

- against -

STRUCTURED SETTLEMENT INVESTMENTS, L.P., STRUCTURED SETTLEMENTS, LLC (f/k/a LawCash Structured Settlements, LLC), SSI-GP HOLDING, LLC, PLAINTIFF FUNDING HOLDINGS, INC. (d/b/a "LawCash"), PLAINTIFF FUNDING CORPORATION, RICHARD PALMA, HARVEY HIRSCHFELD, SELIG ZISES, DENNIS SHIELDS, JASON YOUNGER, and MARC WALDMAN,

Respondents.

JAMS #: 1425000992

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

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EXHIBIT E

JAMS DISPUTE RESOLUTION

SCOTT SIDELL,

Claimant,

- against -

STRUCTURED SETTLEMENT INVESTMENTS, L.P., STRUCTURED SETTLEMENTS, LLC (f/k/a LawCash Structured Settlements, LLC), SSI-GP HOLDING, LLC, PLAINTIFF FUNDING HOLDINGS, INC. (d/b/a "Law Case"), PLAINTIFF FUNDING CORPORATION, RICHARD PALMA, HARVEY HIRSCHFELD, SELIG ZISES, DENNIS SHIELDS, JASON YOUNGER, and MARC WALDMAN,

Respondents.

Reference #: 1425000992

CLAIMANT'S FIRST SET OF WRITTEN INTERROGATORIES

PLEASE TAKE NOTICE that Claimant Scott Sidell ("Sidell"), by his attorneys Meyer, Suozzi, English and Klein, hereby request that Respondents answer under oath the written interrogatories contained herein, on or before March 5, 2008.

DEFINITIONS

1. "Relating to" shall mean and include: referring to, concerning, mentioning, reflecting, pertaining to, evidencing, involving, describing, discussing, responding to, supporting, contradicting, constituting (in whole or part), and/or being a draft, copy or summary of (in whole or in part.)

2. Wherever the word "and" appears herein, it shall be read and applied so as to include the word "or," and wherever the word "or" appears herein, it shall be read and applied so as to include the word "and."

3. Wherever the word "any" appears herein, it shall be read and applied so as to include the word "all," and wherever the word "all" appears herein, it shall be read and applied so as to include the word "any." The singular form of any word appearing herein shall embrace, and be read and applied as embracing, the plural, and the plural form of any word appearing herein shall embrace, and be read and applied as embracing, the singular, except as otherwise expressly stated herein.

4. "Communication" shall mean and include any contact or transmission of information between designated individuals or entities whether written or oral and including, without limitation, presentations, meetings, discussions, conversations, speeches, statements, correspondence, bulletins, memoranda, notes or any other speech, writing, recording or reproduction of any kind.

5. "Claimant" means claimant Scott Sidell.

6. "Respondent" refers to all or any of Respondent's agents, officers, directors, employees, partners, corporate parent, attorneys, predecessors, successors, affiliates or subsidiaries.

7. "Employees" refer to all or any of respondent's employees, including officials, officers, managers, professionals, staff, office, and clerical employees, trainees, and any other person carried of respondent's payroll whether as salaried or hourly employees, full-time or part time employees, employees on commission or independent contractors.

INSTRUCTIONS

1. The interrogatories propounded herein are ongoing, and Respondents are required to amend or supplement their responses.

WRITTEN INTERROGATORIES

1. State the name, address and telephone number of any and all individuals who opened or accessed emails on Sidell's Yahoo email account from in or about August 2007 to date. This includes anyone who went into the Yahoo account (remotely or not) and/or opened individual emails addressed to and/or sent by Scott Sidell. Include the date that each email was opened and/or accessed.

2. State the name, address and telephone number of any and all individuals who approved the opening of emails on Sidell's Yahoo email account from in or about August 2007 to date.

3. State the name, address and telephone number of any and all individuals who kept Sidell's Yahoo email account open on the desktop of the relevant computer from in or about August 2007 to date.

4. State the name, address and telephone number of any and all individuals who read any of Sidell's Yahoo emails from Sidell's Yahoo email account, including printed copies. If there is more than one individual, identify each email or emails that each individual read, and the date that it was read.

5. State the name, address and telephone number of any and all individuals who "remotely" accessed Sidell's computer and email account in August and September 2007.

6. State the name, address and telephone number of any and all individuals, including those at Zuckerman Gore & Brandeis, LLP, who reviewed the box of Respondents' discovery documents that were sent to Meyer Suozzi English & Klein, P.C.

7. Did Respondents copy incoming and outgoing Yahoo emails from/to Scott Sidell in and around August and September 2007? If so, describe with specificity the following:

a. who copied the emails;

b. how they were copied;

c. the date each email was copied;

d. which emails were copied;

e. where the emails were read;

f. and who the emails were divulged to.

8. To the extent Respondents opened individual email messages directed to and/or sent by Sidell in Sidell's Yahoo email account, identify:

a. how the emails were opened;

b. who opened the emails;

c. which emails were opened;

d. when and where the emails were opened;

e. whether the emails were forwarded;

f. who forwarded the emails;

g. who the emails were forwarded to; and

h. who was present.

9. To the extent Scott Yucht gave emails to an individual or individuals at LawCash, identify:

a. when the emails were given to the individual or individuals;

b. the identity of the individual or individuals;

c. which emails were given to the individual or individuals;

10. Identify any and all individuals who gave the instruction to destroy emails referenced in the letter of John K. Crossman to Richard S. Corenthal, dated February 7, 2008. Identify how and when these emails were destroyed.

11. Identify with specificity all emails from Sidell's Yahoo email account which have been destroyed by Respondents and/or by their counsel.

12. State whether the originals and all copies of emails accessed from Sidell's Yahoo email account have been destroyed.

13. Do Respondents take the position that Sidell violated the restrictive covenant outlined in his employment agreement? If so, identify with specificity the basis of such assertion or position, including dates, times, content of statement(s), identity of speaker(s), location of statement(s) and identity of witnesses if any.

14. Do Respondents allege Sidell stole SSI property or confidential information? If so, identify with specificity the basis of such assertion or position, including dates, times, content of statement(s), identity of speaker(s), location of statement(s) and identity of witnesses if any.

15. Do Respondents allege that Patriot Settlement gave notice that they would cease to do business with SSI? If so, identify with specificity the basis of such assertion or position, including dates, times, content of statement(s), identity of speaker(s), location of statement(s) and identity of witnesses if any.

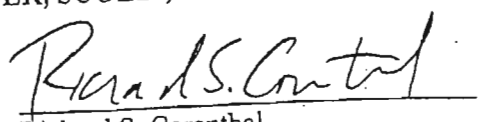
16. State the names of all person who supplied any information for the answers to these interrogatories.

Please provide all supporting documents relevant to these answers.

PLEASE TAKE NOTICE that this request is a continuing demand and all responsive information that subsequently is made known or becomes available shall be furnished to the undersigned in a timely fashion.

Dated: New York, NY
February 15, 2008

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

By: 

Richard S. Corenthal
Joni H. Kletter
Attorneys for Claimant Scott Sidell
1350 Broadway, Suite 501
New York, New York 10018
(212) 239-4999

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

_____, from _____, being duly sworn, deposes and says:

1. I am signing this verification as a representative of Respondent _____ in the JAMS Arbitration case: *Sidell v. SSI, et al. and SSI's Counterclaim against Sidell*, JAMS Ref. No. 142000992.

2. I have read the foregoing response to Claimant's First Set of Interrogatories and know the contents thereof. The answers provided are responsive to the questions asked. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The basis for those matters stated upon information and belief is review of records and discussions with others.

_____

Sworn to before me this
_____ day of February 2008

_____
Notary Public

EXHIBIT F

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EXHIBIT G

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SCOTT SIDELL, Plaintiff, V. STRUCTURED SETTLEMENT INVESTMENTS, LP, and PLAINTIFF FUNDING HOLDING, INC. (D/B/A "LAWCASH"), Defendants.	:	CIVIL ACTION NO. 3:08 CV 717 (JBA) JUNE 13, 2008

DECLARATION IN SUPPORT OF
APPLICATION FOR PREJUDGMENT REMEDY

I, Rich Palma, declare and state under 28 U.S.C. § 1746 as follows:

1. I am employed as a Chief Operating Officer for Structured Settlement Investments, L.P. ("SSI"). I make this Declaration upon my own personal knowledge, in support of SSI's Application for Prejudgment Remedy against Scott Sidell pursuant to Connecticut General Statutes § 52-422.

2. SSI seeks security for its claims pending in arbitration against SSI's former Chief Executive Officer, Scott Sidell, arising from Sidell's financial

mismanagement, deception, concealment of material information, improper diversion of transactions, self-dealing, and breach of fiduciary duty, all to his improper benefit and all to the detriment of SSI.

3. Sidell was instrumental in the acquisition of the ownership interests in SSI by Structured Settlements, LLC f/k/a Lawcash Structured Settlements, LLC ("Settlements") in September 2006. Prior to that acquisition, Sidell had been employed as a key employee of SSI and had been intimately involved with the business of SSI. As buyer, Settlements relied upon Sidell, to provide accurate and complete information concerning the financial condition of the company. Immediately after the acquisition, Sidell became Chief Executive Officer of SSI. When the post-acquisition SSI board invited Sidell to run the company post-acquisition, they did so in explicit reliance upon its expectation that Sidell had provided complete and accurate information about the company. They also built a mechanism into Sidell's employment agreement in order to address any false representations by Sidell or other "cause" for Sidell's termination. As a result of his wrongdoing, Sidell is contractually required to return to SSI a $450,000 advance that was paid to Sidell upon the condition that he would return it if he was terminated for cause within one year.

The Purchase Transaction and Employment Agreement

4. On September 6, 2006, SSI's ownership interests were purchased by Settlements pursuant to a written purchase agreement (the "Purchase Agreement"). Immediately after the purchase, an affiliate of Settlements, a company called Plaintiff Funding Holdings, Inc. (hereafter "PFH") became managing member of SSI.

5. As part of the purchase of SSI by Settlements, Scott Sidell participated in the due diligence investigation of SSI by providing financial and business data which was relied upon by Settlements for the acquisition, and by supervising others who provided financial and business data which was relied upon by Settlements for the acquisition. Settlements relied upon Sidell to prepare and present accurate financial and business data.

6. Based upon that information, immediately after the acquisition, Sidell became employed by SSI as its CEO. His employment was governed by an employment agreement (hereafter referred to as the "Employment Agreement"). A true copy of the Employment Agreement is attached as Exhibit A.

7. The Employment Agreement was entered into contemporaneously with a purchase agreement dated September 6, 2006 (hereafter referred to as the Purchase Agreement").

8. Under to Section 3(d) of the Employment Agreement, SSI was to pay to Sidell a special one time bonus of $450,000, in quarterly installments, "provided, however, that [Sidell] shall repay forthwith any portion of the Special Bonus received by him if prior to the first anniversary hereof [Sidell] is terminated for "Cause." (Emphasis added). Thus, Sidell's right to keep the $450,000 advance was conditional on Sidell not being terminated for Cause within one year (hereafter the "Conditional Bonus").

9. A side-letter dated September 6, 2006, provided, among other things, that Sidell could accelerate payment of the entire Conditional Bonus. However, the side-letter also confirmed that "[i]n the event that [Sidell] is terminated for cause or elects to voluntarily terminate prior to the one year anniversary" of the September 6, 2006, SSI's manager "will have the right to demand full repayment of the entire retention bonus."

10. Sidell accelerated the payment, and on or about September 15, 2006, he was paid the entire $450,000 Conditional Bonus by SSI.

11. Upon information and belief, at the time of the sale, when Sidell obtained his own Employment Agreement, Sidell knew of important false representations in the Purchase Agreement. Indeed, it appears that Sidell not only knew of these false representations; he orchestrated them. However, he did such a good job of covering his tracks that it took months -- but less than year -- for SSI to discover the truth.

Sidell's Misrepresentations

12. The Purchase Agreement contained certain representations and warranties concerning the state of the business, including the status of its employees and customers. Because Settlements, in purchasing SSI, was relying on Sidell to be honest about the business, Sidell's Employment Agreement provided that SSI could terminate Sidell for Cause if Sidell knew that any representation was untrue. In specific, Section 7(a)(vii) provides that SSI may terminate and discharge Sidell for Cause effective immediately upon written notice to Sidell in the event of: "a breach of a representation or warranty by Sellers, which breach was known by Employee [Sidell] to be untrue..." Upon information and belief, there are at least four separate representations which Sidell knew to be untrue.

13. First, Sidell vouched for the representation and warranty that:

> To SSI's Knowledge, no key employee or group of employees (or independent contractors) have any plans to terminate employment with SSI, except in connection with the acceptance of employment with Purchaser.

However, Sidell knew this representation and warranty to be untrue.

14. Upon information and belief, contrary to this representation and warranty, Sidell knew that days before the Purchase Agreement was scheduled to be signed, Michael C. Betzig, a key employee, had gone to Sidell and explained that he in fact had a plan to terminate employment with SSI to join a competitor. Shortly after the closing, Betzig spoke of his disdain for Sidell and that he could not work with him. Sidell had previously represented that there were "no problems." Sidell failed to disclose this information, which would have been highly significant had it been disclosed.

15. Second, Sidell vouched for the representation and warranty that:

> Neither SSI or any Seller has received any notice from a Person to the effect that it would cease to do business with SSI under any circumstances including if SSI were to be sold, nor to the Seller's Knowledge has any Person threatened to cease to do business with SSI.

However, Sidell knew this representation and warranty to be untrue.

16. Upon information and belief, contrary to this representation and warranty, Sidell knew that shortly before the signing of the Purchase Agreement, a key customer, Patriot Settlement, had threatened to cease to do business with SSI, and had given notice that it would cease to do business with SSI. Patriot has substantially ceased to do business with SSI.

17. Third, Sidell vouched for the representation and warranty that:

> SSI is in possession of all permits, licenses, registrations and government authorizations ("Permits") required under Laws for the current operation of its business and its compliance with the requirements and limitations included in such Permits.

However, Sidell knew this representation and warranty to be untrue.

18. Upon information and belief, contrary to this representation and warranty, Sidell knew that SSI was not registered in many states.

19. Fourth, Sidell vouched for the representation and warranty that:

> §2.3 . "...The Financial Statements (a) are in accordance with the books and records of SSI, and (b) fairly and accurately present the assets, liabilities (including all reserves) and financial position of SSI as of the respective dates thereof and the results of operations for the periods covered thereby.

However, Sidell knew this representation and warranty to be untrue.

20. Upon information and belief, contrary to this representation and warranty, Sidell knew that the financial statements did not fairly and accurately reflect SSI's financial position. As part of due diligence, Sidell prepared and supervised the collection of financial and business data which was relied upon by Settlements. Approximately one-third of the deals that were represented as being in the Pipeline at the time of acquisition were in fact dead. Sidell knew that these deals were worthless and would never close, but Sidell kept them on the books and, as a result, the company received a distorted impression of the value of the business prospects of SSI.

21. Meanwhile, Sidell also trumped-up his own worth by claiming to have brought-in most of the business in the Pipeline – the same business that Sidell had failed to disclose was worthless. Sidell also professed to be a mathematician with unique abilities in the art of "pricing" deals. However, it is now clear that pricing was done through a computer model.

22. Moreover, in the period before the sale transaction, instead of running deals through SSI, Sidell ran them through "Eliot Sidell and Scott Sidell's Trust Account." The deals which Sidell diverted to himself, at the expense of SSI, and the respective commission misappropriated by Sidell from SSI include: (a) Helen Smith, $10,000.00 commission; (b) Pamela Williams, $6,381.00 commission; (c) Richard

Manley, $1,307.00 commission; (d) Karen Nerem, $2,840.00 commission; (e) Richard Bodan, $6,831.00 commission; (f) Robert Emph, $2,250.00 commission; (g) Ricky Newsom, $9,500.00 commission; and (h) Harrington, $1,500.00 commission.

23. As a result, SSI entered into the Employment Agreement with Sidell based upon an incorrect impression of the value Sidell brought to the business. Accordingly, Sidell procured his Employment Agreement though deceit.

24. Sidell's failure to disclose these inaccuracies constitute Cause for Sidell's termination.

Sidell's Breaches of Fiduciary Duties

25. Section 7(a)(v) of the Employment Agreement sets forth additional grounds for termination of Sidell's employment for Cause. It provides that SSI may terminate and discharge Sidell for Cause effective immediately upon written notice to Sidell in the following event: "the breach of a fiduciary duty owed by [Sidell] to SSI."

26. While acting as SSI's CEO, Sidell breached fiduciary duties by engaging in unethical practices which jeopardized and damaged SSI's business. Upon information and belief, Sidell caused back-dated documents that SSI was submitting to courts for judicial approval of plaintiff funding. This came to light after certain attorneys declined to work with SSI as a result of Sidell's actions. This has hurt SSI's business, the life-blood of which is referrals from attorneys.

27. While acting as SSI's CEO, Sidell breached his fiduciary duties by depriving SSI of corporate opportunities for the benefit of himself, his friends and relatives. Upon information and belief, Sidell referred certain business opportunities to his second wife, herself a settlement broker, without recompense to SSI.

28. While acting as SSI's CEO, Sidell breached his fiduciary duties by hiring and referring SSI legal work to a lawyer who turned out to be the boyfriend of a relative, all without disclosing this inherent conflict of interest. Although the lawyer in question was supposed to work for SSI, Sidell prohibited SSI employees from contacting that lawyer directly.

29. While acting as SSI's CEO, Sidell breached his fiduciary duties by claiming a bonus from SSI based upon a fraudulent statement of receipts. Under § 3(b) of the Employment Agreement, Sidell was entitled to a special bonus of $300,000 "[i]n the event that...SSI shall receive at least $12,000,000 (gross dollars)" from the sale of certain factored receivables in the first 12 months after the company's purchase. (Emphasis added). SSI had not, in fact, received $12 million in the required 12 months. However, Sidell claimed that he was entitled to the special bonus based upon a false accounting, which was based upon money that SSI's customers (and not SSI, as required by the agreement), had received. Incredibly, Sidell demanded payment of the bonus because, he claimed, SSI's customers had received $12 million in payouts – which is an entirely different benchmark than the amount of money that SSI received on the transactions, which is the benchmark provided in the Employment Agreement.

30. Upon information and belief, thereafter, Sidell told his second-in-command, Mr. Betzig, to claim a bonus himself based on the same distorted accounting.

31. As his employment with SSI continued, Sidell refused instructions from his direct supervisors for financial reporting concerning deals. At the time, it seemed that Sidell was just being difficult or non-responsive. Sidell was frequently absent from the office. He worked in a two-person outpost near his home in Connecticut, and during his

eleven months with the company neglected to visit the head Philadelphia office except for two brief occasions. He once, for example, specifically refused a request for important financial information with a response to the effect that "maybe someone else can do that over the weekend, not me." But now, with the benefit of hindsight, it appears clear that Sidell was trying to cover his tracks. Sidell needed to keep secret the fact that the various deals would never close.

SSI Terminates Sidell For Cause

32. As a result of the discovery of Sidell's breaches of contract and breaches of duty, on August 24, 2007, SSI provided Sidell with written notice of termination for Cause – or SSI attempted to provide it on that date. In a face-to-face meeting with me and Harvey Hirschfeld, Sidell flatly refused to accept the termination letter when it was handed towards him. Instead, he fled the scene without taking it.

33. Sidell was terminated for Cause prior to the first anniversary of the Employment Agreement. A copy of the termination letter is attached as Exhibit B.

34. Section 3(d) of the Employment Agreement provides that if Sidell was terminated for Cause within the first anniversary of the Employment Agreement, Sidell would repay forthwith to SSI the $450,000 Conditional Bonus. SSI has demanded that Sidell return the $450,000, but Sidell has failed to return it. Sidell has breached the Employment Agreement by failing to repay the $450,000 Conditional Bonus to SSI.

Sidell Breaches Additional Covenants

35. Per paragraph 6(b) of Sidell's Employment Agreement, dated September 6, 2006, Sidell understands that SSI's customer lists and other information are proprietary. However, witnesses confirm that after he was fired on August 24, 2007, Sidell returned to the company office and accessed a company computer outside of his previously assigned workspace, one that had been used by another employee.

36. Using that computer without authorization, Sidell then sent to his personal Yahoo email account trade secrets and confidential company information, including lists identifying, among other things: (i) every single customer, their home addresses and phone numbers, (ii) the terms of every deal, (iii) all brokers who sent business to the company, and (iv) personal information about all of the company's employees. In addition, email messages show that Sidell forwarded to his personal email account proprietary excel spreadsheets which are used to price structured settlements. In fact, Sidell sent to his personal email account information that he could use to contact the company's customers, brokers and attorneys, and the proprietary spreadsheets that he could use to price and take their business.

37. Since then, Sidell has misused SSI's information in order to contact business contacts and customers of SSI for the purpose of soliciting business. For example, on September 10, 2007, seventeen days after he was fired, Sidell sent an email directly to Lance Ringhaver, who had funded a deal for a customer listed in the company information Sidell took (Maria Velasquez), for the purpose of soliciting business. Sidell stated in his email that he was an "expert in structured settlements" who "could be of service...in helping [Ringhaver] to negotiate the risk landscape of complex deals" and he

"wanted to reach out to [him] to explore the universe of transactions in which [he] may have an interest going forward." In so doing, Sidell breached restrictive covenants in Employment Agreement § 6(d) and (e).

38. Upon information and belief, Sidell solicited business from at least seven different brokers and competitors, often asking them to send deals directly to Sidell -- and not to SSI -- so that Sidell could fund them on his own, in violation of Sidell's contractual and fiduciary duties to SSI. The brokers and competitors that Sidell improperly contacted include: (a) Jim Actis and Lawrence Paelet, Esq., Bentley Asset Group, LLC; (b) Joe Pepitone, R&P Capital Resources, Inc.; (c) Warren Chiapparelli a/k/a Steven Casper, PS Crew Holdings of South Florida, Inc.; (d) Fred Bonari, Northeastern Capital Funding; (e) Shane Faire, Fairfund Financial Group.; (f) Michael Schaul, KG Funding; and (g) Eugene Ahtirsky, Esq., Law Offices of Eugene Ahtirski.

39. Sidell is competing with SSI and interfering with SSI's customers in complete disregard of his restrictive covenants.

40. Sidell's misconduct violates the restrictive covenants of the Employment Agreement, including Sidell's covenants not to use any of SSI's confidential information, not to compete with SSI, and not to solicit SSI's business as set forth in Sections 6 (a)-(e).

Sidell Erases Data From Laptop Computer

41. As part of Sidell's termination, SSI twice, in writing, demanded return of Sidell's laptop and blackberry, both of which were company property and contained company data.

42. On September 10 and September 28, 2007, I sent two follow-up letters to Sidell demanding, among other things, that Sidell return company property including the laptop computer. However, despite these demands, Sidell improperly retained these devices and then, in further violation of his obligations, he deliberately deleted all data from the computer.

43. On October 12, 2007, SSI sent a letter to Sidell demanding that Sidell return SSI's database and any other SSI property, and cease and desist from further violations of his restrictive covenants.

44. On October 18, 2007 -- two months after he was fired – Sidell finally returned the company laptop computer he used before he was fired, but not until after he had taken elaborate steps to delete all SSI proprietary information from the laptop.

45. A computer forensic specialist examined the laptop and determined that the Windows operating system had been re-installed over the erased hard-drive on or about October 14, 2007, while the laptop was still in Sidell's possession and after repeated demands for its return. Prior to the re-installation of Windows, the hard drive had been reformatted or "wiped clean." It appeared that the hard drive had been deleted using a third party over-writing software, prior to the re-installation of Windows operating system. The laptop was searched for deleted files, but less than ten were located.

The Arbitration

46. The Employment Agreement contains an arbitration clause allowing a party to demand that a dispute arising under the Employment Agreement be settled by arbitration before JAMS:

> Any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof whether sounding in contract or tort, and whether arising out of any statute, or otherwise, shall be settled by binding arbitration in New York City in accordance with the Rules of JAMS or its successor entity. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may otherwise be required by applicable statute. The losing party shall pay all the costs of the arbitration including the reasonable attorney's fees and costs of the other party.

(Employment Agreement, Exh. A, at § 18, pp. 8-9).

47. On or about October 18, 2007, Sidell commenced the arbitration with JAMS in New York City.

48. On or about November 14, 2007, SSI filed its Counterclaims against Sidell.

49. In the arbitration, SSI asserts that because of the breaches set forth above, Sidell must return to SSI the $450,000 conditional bonus. SSI also seeks an award of actual damages to SSI and against Sidell in an amount proven at hearing for losses sustained by reason of the breaches alleged herein, including for example any damage to reputation, loss of business, or other results of Sidell's misconduct, including his misuse and theft of confidential information, all in an amount to be determined at trial, together with interest thereon; and evidentiary and monetary sanctions against Sidell for spoliation of evidence.

50. In addition, I understand that Sidell has breached his obligations under two separate orders issued by the Arbitrator directing Sidell to produce data which Sidell wrongfully took from SSI. Sidell has not complied with the Arbitrator's orders.

51. I am informed that prejudgment interest at the statutory rate of 9%, as provided by New York law (N.Y. C.P.L.R. §§ 5001 and 5004), from Sidell's date of termination to present is $32,510.96.

52. We have been billed a total of $106,378.50 in attorneys' fees and $1,080.95 in costs to date in connection with the Arbitration.

53. To date, we have paid $29,177.35 directly to JAMS for arbitration costs.

54. As a result, SSI seeks an order *pendente lite* to secure the sum of six-hundred nineteen thousand one-hundred forty seven dollars and seventy-six cents ($619,147.76).

55. Based on the facts stated above, there exists probable cause that SSI will obtain an arbitration award in the amount of $619,147.76, or an amount greater than the amount of the prejudgment remedy sought, taking into account any known defenses, counterclaims or set-offs.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 12th day of June 2008 in New York, New York.

Rich Palma

CERTIFICATE OF SERVICE

I hereby certify that, on June 13, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access the foregoing through the Court's system.

/s/ John F.X. Peloso, Jr.
John F.X. Peloso, Jr. (ct02447)

EXHIBIT A

EMPLOYMENT AGREEMENT

By and Between

STRUCTURED SETTLEMENT INVESTMENTS, L.P.

and

SCOTT SIDELL

As of September 6, 2006

TABLE OF CONTENTS

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of September 6, 2006, by and between Structured Settlement Investments, LP, a Delaware limited partnership ("SSI") and Scott Sidell, an individual residing at 21 Old Mill Road, Westport, CT 06880 ("Employee").

WITNESSETH:

WHEREAS, SSI desires to employ Employee as President and Employee desires to be exclusively employed by SSI as its Chief Executive Officer; and

WHEREAS, both parties desire to clarify and specify the rights and obligations which each have with respect to the other in connection with Employee's exclusive employment hereunder.

NOW, THEREFORE, in consideration of the agreements and covenants herein set forth, the parties hereby agree as follows:

1. Employment

SSI hereby employs Employee as its Chief Executive Officer, and Employee hereby accepts such exclusive employment and agrees to render his exclusive services as an employee of the SSI, for the "Term" of this Agreement (as set forth in Section 5 below), subject to and upon the terms and conditions set forth herein.

2. Duties and Responsibilities of Employee

(a) Commencing on the date first set forth above, Employee shall be exclusively employed as the SSI's Chief Executive Officer, and Employee agrees to provide his exclusive services to the SSI, subject to the terms and conditions hereof. Employee shall perform his duties and responsibilities in a manner commensurate with those of a similarly situated employees in a similar business. In the performance of any and all of his duties for the SSI, Employee shall report directly to Marc Waldman ("Waldman"), or any other person or persons designated by the SSI.

(b) Employee shall use his best efforts to maintain and enhance the business and reputation of the SSI and shall perform such other duties commensurate with Employee's position as may, from time to time, be designated to Employee. Employee's principal place of employment shall be the New York City metropolitan area, although Employee shall be readily available to travel as the reasonable needs of the SSI shall require. Employee shall devote himself to the business and affairs of the SSI on a full-time basis.

3. Compensation

(a) In consideration for his services to be performed under this Agreement and as compensation therefore, the SSI agrees to pay to Employee, during the

Term an annual base salary (the "Base Salary") of Two Hundred Thirty Five Thousand Dollars ($235,000.00) per annum payable in accordance with the SSI's ordinary payroll practices for salaried employees. All payments of Base Salary shall be subject to all applicable withholdings and deductions.

(b) In the event that during the twelve-month period following the date hereof, SSI shall receive at least $12,000,000 (gross dollars) from the sale of structured settlement, lottery, assignable annuity, casino jackpot or other similar factored receivables originated by SSI or third party originators as determined by SSI in good faith (the "Threshold"), Employee shall be entitled to a special bonus (the "Maintenance Bonus") of $300,000, which Maintenance Bonus shall be payable in equal quarterly payments of $25,000 over the three (3) year period commencing the month following achievement of the Threshold; provided, however, that such payments shall cease and shall no longer be required to be made if the Employee shall be terminated for Cause (as defined herein) or Employee shall voluntarily terminate his employment.

(c) Employee shall be entitled to an annual incentive Bonus of 1.5% of the amount by which the annual gross dollars from the sale of structured settlement, lottery, assignable annuity, casino jackpot or other similar factored receivables originated by SSI or third party originators as determined by SSI in good faith exceeds $16,000,000 (the "Bonus"), payable within 90 days of the end of each fiscal year during the term of this Agreement; provided that Employee is an employee of SSI at the time of payment. For purposes of determining whether the Threshold or Bonus in subsections (b) or (c) have been achieved, the annual gross dollar of structured settlement receivables shall include those receivables generated by SSI, affiliates of SSI, or otherwise at the direction of SSI or its principals, if and only if the receivables have been generated principally through the efforts of the Employee.

(d) Employee shall be entitled to a special one time bonus of $450,000 payable in twelve (12) equal quarterly installments of $37,500.00 beginning three (3) months from the date hereof (the "Special Bonus") for so long as Employee shall not have been terminated for "Cause" (as hereinafter defined) or Employee voluntarily terminates his employment hereunder; provided, however, that Employee shall repay forthwith any portion of the Special Bonus received by him if prior to the first anniversary hereof Employee is terminated for "Cause" or Employee voluntarily terminates his employment hereunder.

(e) Other Bonus or incentives will be at the discretion of the SSI.

4. Benefits

In addition to the compensation provided for in Section 3 above, Employee shall be entitled to the following benefits during and in respect of the Term of this Agreement:

(a) Employee shall be entitled to participate in or receive benefits equivalent to any employee benefit plan or other arrangement, including but not limited to any medical, dental, vision, retirement, disability and life insurance, generally made available by the SSI to similar executives, subject to or on a basis consistent with the terms, conditions and overall administration of such plans or arrangements, and further, to the extent practicable, consistent with the benefits received by Employee from his

immediately preceding employer; provided, that such plans and arrangements are made available at the absolute and sole discretion of the SSI and nothing in this Agreement establishes any right of the Employee to the availability or continuance of any such plan or arrangement.

(b) Commencing in calendar year 2007, Employee shall be entitled to four (4) weeks paid vacation in accordance with the SSI's standard practices as are in effect from time-to-time (provided, however, that vacation shall be earned by Employee in a manner consistent with the practices of Employee's immediately preceding employer) and at such times as are mutually agreeable to Employee and the SSI.

(c) Employee shall be entitled to reimbursement for all reasonable travel, entertainment and other reasonable expenses incurred in connection with the SSI's business, provided that such expenses are adequately documented and vouchered in accordance with the SSI's policies.

(d) All salaries, bonuses, taxable fringe benefits and other taxable payments or benefits provided by the SSI to the Employee shall be subject to withholding for all applicable taxes and insurance premiums (if any) required to be paid by Employee pursuant to SSI benefit programs.

5. Term of Employment

The term of Employee's employment hereunder shall commence on the date hereof and shall continue up to and including July 28, 2009 (the "Term"), subject to renewal upon the SSI and the Employee's mutual agreement in writing. Any reference herein to the "Term" shall include any such renewal term.

6. Restrictive Covenants

(a) Employee agrees and covenants that, at any time during which Employee is employed by the SSI (which, for purposes of this Section 6 shall include the SSI's successors-in-interest, subsidiaries and affiliates) or thereafter, he will not (without first obtaining the express permission of the SSI) (i) divulge to any person or entity, nor use (either himself or in connection with any business) any "Confidential Information" (as hereinafter defined in Section 6(b) hereof) and (ii) divulge to any person or entity, nor use (either himself or in connection with any business) any "Trade Secrets" (as hereinafter defined in Section 6(c) hereof) to which he may have had access or which had been revealed to him during the course of his employment, in each case, unless such disclosure is pursuant to a court order, disclosure in litigation involving the SSI or in any reports or applications required by law to be filed with any governmental agency, but only after reasonable prior written notice thereof to the SSI, which written notice shall set forth in reasonable detail the proposed disclosure, to the SSI.

(b) As used in this Agreement, the term "Confidential Information" shall mean and include all information and data in respect of the SSI's operations or the SSI's financial condition, products, customers and business (including, without limitation, artwork, photographs, specifications, facsimiles, samples, business, marketing or promotional plans, creative written material and information relating to characters, concepts, names, trademarks, trade names, trade

dress and copyrights) which may be communicated to Employee or to which Employee may have access in the course of Employee's employment by the SSI. Notwithstanding the foregoing, the term "Confidential Information" shall not include information which: (i) is, at the time of the disclosure, a part of the public domain through no act or omission by Employee; or (ii) is hereafter lawfully disclosed to Employee by a third party who or which did not acquire the information under an obligation of confidentiality to or through the SSI.

(c) As used in this Agreement, the term "Trade Secrets" shall mean and include information, without regard to form, including, but not limited to, technical or non-technical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information (i) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Notwithstanding anything to the contrary and in no way in limitation of the previous language, the term "trade secrets" includes all information protectible as "trade secrets" under applicable law.

Nothing in this Section 6 shall limit any protections or remedy provided to the SSI under any law, statute or legal principle relating to Confidential Information or Trade Secrets.

(d) Employee hereby agrees and covenants that during the period beginning with the initial commencement of Employee's employment with the SSI (including subsidiaries or affiliates) and ending three (3) years following the termination of Employee's employment with the SSI for any reason or for no reason ("Non-Compete Period"), Executive shall not, directly or indirectly, engage in or become interested in (whether as an owner, principal, agent, stockholder, member, partner, trustee, venturer, lender or other investor, director, officer, employee, consultant or through the agency of any person or entity) any business or enterprise that at any time during the Non-Compete Period shall be in whole or in part competitive with any material part of the business conducted by the SSI (which, for purposes of this Section 6 shall include the SSI's subsidiaries and affiliates).

(e) Employee agrees and covenants that during the Non-Compete Period, Employee shall not, on his own behalf or on behalf of any third person or entity, directly or indirectly, solicit business from any brokers or attorneys that have done business with the SSI (except for fulfilling his duties to the SSI while in the employ of the SSI), or recruit any then current employee, consultant or independent contractor of the SSI, or any individual who has served in any such capacity at any time six (6) months prior thereto, for employment or any other relationship, or induce or seek to cause such person to terminate his or her employment or arrangement or relationship with the SSI.

7. Termination

(a) Termination by the SSI for Cause. The SSI may terminate and discharge Employee and terminate this Agreement for cause ("Cause") effective immediately upon written notice to the Employee or on any other date specified in such notice upon the occurrence of

shall be entitled to receive (i) all earned but unpaid Base Salary through the termination date, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) the balance of all earned but unpaid annual Bonus, subject to all applicable withholdings and deductions, (iii) all accrued benefits under Section 4 hereof, however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as COBRA), and (iv) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(d) Termination by the SSI Without Cause. The SSI may terminate and discharge Employee and terminate this Agreement for any reason other than those set forth in Section 7(a) through (c) ("Without Cause") by first providing no less than ninety (90) days, prior written notice. Upon the termination of Employee's employment pursuant to this Section 7(d), all obligations of SSI hereunder shall thereafter cease upon the expiration of the applicable ninety (90) day period, except that Employee shall be entitled to receive (i) all earned but unpaid Base Salary through the termination date as well as Base Salary for a period of one (1) year thereafter payable in accordance with SSI's normal payroll practices, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices, (ii) the balance of all earned but unpaid annual Bonus, subject to all applicable withholdings and deductions, (iii) all accrued benefits under Section 4 hereof; however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as COBRA), and (iv) reimbursement from SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge.

(e) Termination by Employee. Employee may terminate employment and terminate this Agreement for any reason by first providing no less than ninety (90) days, prior written notice. Upon the termination of Employee's employment pursuant to this Section 7(e), all obligations of the SSI shall cease upon the expiration of the applicable ninety (90) day period, except that the Employee shall be entitled to receive (i) all earned but unpaid Base Salary, subject to all applicable withholdings and deductions in accordance with the SSI's payroll practices through the final day of the Employee's Notice Period, (ii) all accrued benefits under Section 4 hereof; however, on the date of termination all benefits under Section 4 hereof shall cease accruing and terminate immediately upon such discharge (subject to applicable law such as the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended ("COBRA")), (iii) reimbursement from the SSI for any monies due to Employee which right to reimbursement accrued prior to such discharge. Employee shall have no further obligations to the SSI other than those set forth in Section 3(d), Section 6(a), Section 6(b), Section 6(c), Section 6(d) and Section 6(e), and any other provision hereof that survives the termination of the term hereof.

8. Violation of Others Agreements

Employee represents and warrants to the SSI that he has full legal capacity to enter into this Agreement and accept employment with the SSI; that Employee is not prohibited by the terms of any written or oral contract, agreement, understanding or policy from entering into this Agreement; that the terms hereof will not and do not violate or contravene the terms of any written or oral contract, agreement, understanding or policy to which Employee is or may be a party, or by which Employee may be bound; and that Employee is under no physical or mental

disability that would hinder the performance of his duties under this Agreement. Employee agrees that, as it is a material inducement to the SSI that Employee make the foregoing representations and warranties and that such representations and warranties at all times be true in all respects, Employee shall during the Term hereof and for the Non-Compete Period indemnify and hold the SSI harmless from and against all liability, costs or expenses (including attorney's fees and disbursements) on account of the foregoing representations being untrue.

9. *Specific Performance; Damages*

In the event of a breach or threatened breach of the provisions of Section 6 hereof, Employee agrees that the injury which could be suffered by the SSI (which for purposes of this Section 9 shall include the SSI's successor-in-interest, subsidiaries and affiliates) would be of a character which could not be fully compensated for solely by a recovery of monetary damages. Accordingly, Employee agrees that in the event of a breach or threatened breach of Section 6 hereof, in addition to and not in lieu of any damages sustained by the SSI and any other remedies which the SSI may pursue hereunder or under any applicable law, the SSI shall have the right to equitable relief, including but not limited to issuance of a temporary or permanent injunction or restraining order, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damages or posting of any bond or other surety therefor. In addition to, and not in limitation of the foregoing, Employee understands and confirms that, in the event of a breach or threatened breach of Section 6 hereof, Employee may be held financially liable to the SSI for any consequential loss suffered by the SSI as a result thereof.

10. *Notices*

Any and all notices, demands or requests required or permitted to be given under this Agreement shall be given in writing and sent, by registered or certified U.S. mail, return receipt requested, by hand, or by overnight courier, addressed to the parties hereto at their addresses set forth above or such other addresses as they may from time-to-time designate by written notice, given in accordance with the terms of this Section, together with copies thereof as follows:

If to Employer, with a copy to:

Zukerman Gore & Brandeis, LLP
875 Third Avenue
New York, NY 10022
Attn.: Jeffrey D. Zukerman, Esq.

Notice given as provided in this Section shall be deemed effective: (i) on the date hand delivered, (ii) on the first business day following the sending thereof by overnight courier, and (iii) on the fifth calendar day (or, if it is not a business day, then the next succeeding business day thereafter) after the depositing thereof into the exclusive custody of the U.S. Postal Service.

11. *Waivers*

No waiver by any party of any default with respect to any provision, condition or requirement hereof shall be deemed to be a waiver of any other provision, condition or

requirement hereof; nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter.

12. Preservation of Intent

Should any provision of this Agreement be determined by a court having jurisdiction in the premises to be illegal or in conflict with any laws of any state or jurisdiction or otherwise unenforceable, the SSI and Employee agree that such provision shall be modified to the extent legally possible so that the intent of this Agreement may be legally carried out.

13. Entire Agreement

This Agreement sets forth the entire and only agreement or understanding between the parties relating to the subject matter hereof and supersedes and cancels all previous agreements, negotiations, letters of intent, correspondence, commitments and representations in respect thereof among them, and no party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement except as provided in this Agreement.

14. Assignment

Neither this Agreement nor any rights or obligations of Employee hereunder shall be transferable or assignable by Employee. The SSI shall have the right to assign its rights and obligations hereunder.

15. Amendment

This Agreement may not be amended in any respect except by an instrument in writing signed by the parties hereto.

16. Headings

The headings in this Agreement are solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

17. Counterparts

This Agreement may be executed in any number of original or facsimile counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

18. Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of New York, without giving effect to such state's conflicts of laws provisions. Each of the parties hereto irrevocably consents to the non-exclusive venue and jurisdiction of the federal and state courts located in the State of New York. Any dispute,

controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof whether sounding in contract or tort, and whether arising out of any statute, or otherwise, shall be settled by binding arbitration in New York City in accordance with the Rules of JAMS or its successor entity. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may otherwise be required by applicable statute. The losing party shall pay all the costs of the arbitration including the reasonable attorney's fees and costs of the other party. This section shall not preclude the parties from bringing an action in any court of competent jurisdiction for injunctive relief or other provisional remedy in relation to any dispute arising in connection with this Agreement.

19. Survival

The provisions of each of Sections 6, Section 7, Section 8, Section 9, Section 10, Section 12, Section 13, Section 14, Section 16, Section 18 and this Section 19 shall survive the termination or expiration of the Agreement in accordance with their respective terms.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

EMPLOYER:

Scott Siddl

STRUCTURED SETTLEMENT INVESTMENTS, LP:

By:
Name: Harley R. Hirschfeld
Title: Authorized Person

EXHIBIT B

ZUKERMAN GORE & BRANDEIS, LLP

875 THIRD AVENUE • NEW YORK, NEW YORK 10022 TELEPHONE 212 223-6700 • FACSIMILE 212 223-6433

August 24, 2007

FEDERAL EXPRESS and
FIRST CLASS MAIL

Mr. Scott Sidell
21 Old Mill Road
Westport, CT 06880

Re: Termination for Cause

Dear Mr. Sidell:

We represent your employer, Structured Settlement Investments, L.P. ("SSI"). As you know, your employment is governed by an Employment Agreement between SSI and you dated as of September 6, 2006 (the "Agreement").

Section 7(a) of the Agreement sets forth the grounds for termination of your employment for Cause. In particular, Section 7(a)(vii) provides that SSI may terminate and discharge you effective immediately upon written notice to you in the following event: "a breach of a representation or warranty by Sellers, which breach was known by Employee to be untrue, under that certain Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith." This letter constitutes such notice to you of your termination effective immediately because of such event.

The particular representations and warranties by Sellers which were known to you include at least the following:

(1) "To SSI's Knowledge, no key employee or group of employees (or independent contractors) have any plans to terminate employment with SSI, except in connection with the acceptance of employment with Purchaser." (Limited Partnership Purchase Agreement among LawCash Structured Settlements, LLC and the parties thereto of even date herewith ("LawCash Agreement") § 2.13(c).

(2) "Neither SSI or any Seller has received any notice from a Person to the effect that it would cease to do business with SSI under any circumstances including if SSI were to be sold, nor to the Seller's Knowledge has any Person threatened to cease to do business with SSI." (LawCash Agreement § 2.4).

It has come to our attention that in fact, contrary to Representation and Warranty (1), you knew that a matter of days before the LawCash Agreement was scheduled to be signed, Michael

C. Betzig, a key employee, had come to you and explained that he in fact had a plan to terminate employment with SSI to join a competitor. You failed to disclose this information, which would have been highly significant had it been disclosed.

Contrary to Representation and Warranty (2), you knew that shortly before the signing of the LawCash Agreement, a key customer, Patriot Settlement, had given notice that it would cease to do business with SSI, and that it had threatened to cease to do business with SSI.

Furthermore, it appears that you have breached your fiduciary duty to the company by attempting to induce another employee, Mr. Betzig, to claim a bonus to which he is not entitled. This is an independent violation of Section 7(a)(v), and it constitutes an additional basis for immediate termination for cause. Your own claim for a bonus is yet another breach, relying as it does upon a fraudulent statement of receipts. In particular, you claimed that SSI had received in the relevant 12 month period in excess of $12 million. But your accounting, we have learned, was grossly (and clearly intentionally) misstated by a factor of several million dollars. The portion of the Agreement regarding your bonus for receipt of in excess of $12 million is set forth in Section 3(b). That Section clearly states that it is based upon receipt *by SSI* of that amount in gross dollars from the sale of structured settlement, lottery [etc.]. Yet your calculation appears to be based upon a deliberate misreading of the provision, and an aggregation of funds received by customers of SSI as part of those transactions – a computation which is nothing less than ludicrous under the agreement.

We are informed that other representations and warranties are presently being reviewed, as well as your other conduct, and this notice is without prejudice of the right of our client to supplement if and when additional misdeeds are identified.

We call to your attention Section 3(d) of the agreement, which requires you *forthwith* to repay to SSI your special one time bonus of $450,000, all of which you have already received. Demand, although not required, is hereby made for same.

We remind you of your obligations under the Restrictive Covenants contained in Section 6 of the Agreement.

This letter is made with full reservation of the rights of our client, all of which are expressly reserved.

Very truly yours,

John K. Crossman

EXHIBIT G

HURWITZ SAGARIN SLOSSBERG & KNUFF LLC

RUSSELL A. GREEN, ESQ.
RGreen@hssklaw.com

HS S&K

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June 19, 2008

Jeanne C. Miller, Esq., Arbitrator
260 West End Avenue, Apt. 6A
New York, NY 10023

Re: Sidell v. SSI, et al
JAMS Ref. No. 1425000992

Dear Arbitrator Miller:

This letter follows our telephone status conference of Friday, June 13, 2008 in which the Respondents requested, and you granted, permission to file a motion for sanctions. We had hoped the "court-like litigation" that you cautioned the parties against in your Order #3 might obviate the need to move for sanctions, as we intended to address the Respondents' conduct with respect to Sidell's e-mails in federal court in Connecticut. However, the Respondents' intent to file for sanctions leaves us no alternative. Now that the issue of sanctions has been raised and will be briefed, we also request permission to file sanctions and propose doing so pursuant to the same schedule set forth in Order #7. The relief we seek includes disqualification of Respondents' counsel, Zuckerman, Gore, & Brandeis ("ZGB"), entry of default judgment on the Counterclaims, and attorney's fees.

1. Respondents' Position on Sanctions Is Wholly Inconsistent with Their Position to Date, Which Is That This Tribunal Lacks Authority over the Issue of Unauthorized Access to E-Mails

The Respondents' motion concerns their unauthorized access to Sidell's e-mails, including privileged attorney-client communications. The Respondents apparently intend to claim that the case we filed in federal court in Connecticut concerning their unauthorized access to Sidell's e-mails violates the Protective Order issued by you on January 18, 2008, despite having previously taken the position that you lacked authority to rule on the e-mail issue, and despite their prolonged concealment of the unauthorized access to Sidell's e-mail account. Frankly, this position is advanced in bad faith.

Respondents have consistently thwarted our efforts to obtain discovery of the unauthorized access to Sidell's e-mails. In fact, it took two orders from you before they produced some, apparently redacted attorney-client e-mails (thus, it does not appear there has even been full disclosure of these e-mails). To date, Respondents have not disclosed any other (non-attorney client) Sidell e-mails. The Respondents have justified their position by claiming that: 1) the e-mail issue is irrelevant to these proceedings; 2) JAMS lacks authority over this issue; 3) Respondents did not consent to arbitration of this issue; and, 4) Respondents and/or others may

be liable under federal statutes. Accordingly, ZGB's present request for sanctions for our pursuing this claim in another forum is nothing more than a diversionary tactic from their own sanctionable and unethical conduct, as well as the illegal conduct of their clients, which is the subject of the Complaint filed in the District of Connecticut, a copy of which is attached hereto.

In contrast, Sidell's position has been consistent: We are entitled to full discovery on the unauthorized access to Sidell's e-mails but, and in this regard we share Respondents' prior position, this Arbitration lacks authority to award damages for the unauthorized e-mail access. Under no circumstances does an agreement to arbitrate deprive a claimant of rights under federal statutes, particularly those rights that were never bargained for in the initial agreement to arbitrate and are not subject to the arbitration. Respondents seek to place you in the untenable position of rendering decisions that would materially affect the proceedings in a federal court – something this tribunal has no authority to do. Respondents' claims on this issue must be addressed, if at all, in the federal court.

2. It Is the Conduct of the Respondents and Their Counsel That Is the Proper Subject of Sanctions

If Respondents now seek to raise the issue of conduct concerning the discovery of the Sidell personal e-mails, we are happy to do so, though it is their conduct that is sanctionable. In short, Respondents cannot shield their own unethical and/or illegal conduct behind the protective order.

It is clear that under New York law confidential attorney-client communications, including those by e-mail, are protected from disclosure and are inadmissible as evidence. CPLR §§ 4503, 4548. In Galison v. Greenberg, 5 Misc.3d 1025(A), 799 N.Y.S.2d 160 (2004), the Court looked to the opinions of the Association of the Bar of the City of New York, and the New York County Lawyers Association, and noted that both organizations conclude that "when receiving a communication or e-mail which the lawyer knows or should reasonably know contains privileged material, the attorney is obligated to 'promptly notify the sending attorney' thereof, to refrain from further review of the communication, and to return or destroy it if so requested. Counsel should be aware of their obligations in these circumstances, and promptly adhere to them, in order to avoid sanctions."

As we now know, the Respondents accessed Sidell's personal, private e-mails, including privileged communications between Sidell and his lawyers immediately following Sidell's termination on August 24, 2007, and continued to do so for as long as they could, possibly for as long as two weeks. These e-mails contained detailed strategy concerning Sidell's rights and remedies following his termination. At some point ZGB acquired the privileged communications. Since ZGB issued Sidell's termination letter dated August 24, 2007, there is good reason to believe that ZGB acquired the e-mails contemporaneously with Respondents' unauthorized access to Sidell's e-mails in late August and early September 2007. This is buttressed by the fact that the Counterclaims, dated November 14, 2007, which were filed by

ZGB, appear premised, at least in part, on facts gleaned from unauthorized access to Sidell's personal e-mails.

Despite ZGB's clear ethical obligations to immediately return these privileged communications and make no use of them, they did neither. Whenever they came into possession of these e-mails, ZGB did not return the e-mails to Sidell's counsel or even notify counsel that ZGB was in possession of privileged communications. To the contrary, ZGB concealed their possession of these communications for possibly up to six months, perhaps deliberately waiting until after the issuance of the Protective Order so that they could attempt to immunize their conduct and that of their clients. In fact, Sidell's lawyers did not become aware of Respondents' possession of the e-mails until Sidell's lawyers received and reviewed the Respondents' document production in February 2008. Not only was this conduct in violation of the ethical obligations articulated in Galison v. Greenberg, supra, but counsel's manner in ultimately producing the e-mails is also sanctionable.

When Respondents did disclose e-mails from Sidell's personal e-mail account, they produced only a few, apparently redacted attorney-client communications. Even after issuance of your Orders No. 4 and 6 explicitly directing that these e-mails be returned, Respondents provided only limited, redacted e-mails. Thus, it is difficult to determine exactly how many e-mails have been produced because of the apparent redactions removing headings which identify the sender, recipient(s), dates and subject. It now appears that the redactions were calculated to conceal when Respondents came into possession of the e-mails.

Not only are monetary sanctions warranted under the circumstances, but this conduct also warrants disqualification of counsel from this matter. Their ability to serve as counsel for the Respondents has been irreparably tainted. They possess privileged attorney communications between Sidell and his counsel. Such communications were improperly obtained and used against Sidell. Based on these reasons, and those we intend to include in our submission to this tribunal, we respectfully request permission to seek sanctions to the extent this tribunal considers the issue at all. Please be advised that we also intend to address these issues in the federal court actions pending in the District of Connecticut.

Thank you for your attention to this matter.

Respectfully yours,

Russell A. Green
RAG/lcs

cc: Frank C. Welzer, Esq.
David A. Slossberg, Esq.