

I. INTRODUCTION

Finding that there was good cause to believe that they had committed securities fraud, this Court imposed a receivership over Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (“**BUCF**”) (collectively, Bryant and BUCF, the “**Receivership Defendants**”). The Receivership Defendants, however, used and worked in concert with a number of other entities and parties to effectuate the fraud. The Receivership Defendants and the Wammel Defendants (defined below) created interlocking Ponzi schemes that were symbiotic in nature—using the investors from one Ponzi scheme to pay off the other Ponzi scheme investors. Although BUCF and the Wammel Group have different investors, due to the interdependent nature of the Ponzi schemes created by the Receivership Defendants and the Wammel Defendants, the Receiver cannot unwind one without also unwinding the other. The level of interaction between the Receivership Defendants and the Wammel Defendants requires that the Wammel Defendants now be included.

The Receiver moves the Court to expand the Receivership so that the following are placed in receivership and made subject to the asset freeze:

- Relief Defendant Arthur F. Wammel (“**Wammel**”);
- Wammel Group Holdings Partnership (“**WGHP**”); and
- Wammel Group, LLC (the “**Wammel Group**,” together with Wammel and WGHP, the “**Wammel Defendants**”).

As more fully set forth in this Motion, the Receiver’s *Ex Parte* Emergency Motion should be granted because (1) the Wammel Defendants participated in the fraud with the Receivership

Defendants, and (2) the Wammel Defendants are affiliated with the Receivership Defendants.

Supporting evidence includes the following:

- **The Receivership Defendants and the Wammel Defendants were intertwined.** The Receivership Defendants and the Wammel Defendants created a virtual spider's web of interlocking entities that they utilized in connection with the investment scheme out of which this case arises.
- **The Wammel Defendants received significant transfers from the Receivership Defendants.** The Wammel Defendants received over \$16.2 million from BUCF from 2011 to date.
- **The Wammel Defendants commingled BUCF investors funds with Wammel Group investor funds.** The Wammel Defendants used the majority of the \$16.2 million of BUCF investor capital received, commingled with \$28.6 million in funds raised from the Wammel Defendants' own investors, to fund speculative options and securities trading.
- **The Wammel Defendants dissipated assets.** The Wammel Defendants have dissipated over \$7 million in investor monies since December 2016.
- **Like Bryant, Wammel personally benefitted.** Wammel benefitted personally by transferring or withdrawing over \$5 million in investors funds received by the Wammel Group.
- **Wammel held various positions at BUCF and was aware of representations made to BUCF investors.** Wammel knew that Bryant communicated to BUCF investors that such monies would be used in the mortgage industry. Bryant communicated to Wammel the investment options he offered to BUCF investors. He further communicated to Wammel that BUCF investors were promised returns of 30%.
- **Wammel and Bryant falsified documents.** Wammel and Bryant coordinated the falsification of multiple documents. For example, acting as an employee of the Bryant entities, Wammel falsified documents for Bryant's personal benefit to purchase assets. Bryant also falsified documents for Wammel to solicit investor.
- **The Wammel Defendants violated the Receivership Order and TRO.** By dissipating BUCF assets, the Wammel Defendants violated (1) Judge Mazzant's *Order Appointing Receiver* ("**Receivership Order**") [Dkt. No. 17 at ¶ 16], and (2) Judge Mazzant's *Ex Parte Order Granting Motion for Temporary Restraining Order Preliminary Injunction, Asset Freeze, Appointment of Receiver, Document Preservation Order, Order to Make Accounting and Other Emergency Relief, and Setting Hearing Date on Plaintiff's Preliminary-Injunction Motion* (the "**TRO**") [Dkt.

No. 16 at ¶ 15]. The Receivership Order and TRO required an accounting and forbade the dissipation or removal of any BUCF assets.

- **Wammel pled the Fifth Amendment and has failed to preserve evidence.** In response to the SEC's discovery, Wammel pled the Fifth Amendment. Additionally, the Receiver was only recently made aware that the computer used by the Wammel Defendants to transact business is no longer available.

This requested relief is necessary to preserve, locate, and marshal the BUCF records and assets. Without it, the Receivership will be irreparably harmed by the continuing evaporation of assets. The requested relief furthers the public interest in that it will improve the percentage of recovery to investors and creditors of BUCF and in that it will bring to light the actions of the Wammel Defendants in their violations of the Receivership Order and TRO. The requested relief by the Receiver preserves the status quo and outweighs any harm accruing to the Wammel Defendants, which harm, if any, was occasioned by their own actions in participation in the scheme and disregarding the Receivership Order and TRO. Finally, the Receiver is likely to succeed on the merits of her causes of action for fraudulent transfer, conversion, civil conspiracy, and breach of fiduciary duty.

The Receiver's ultimate goal is to gather all of the available assets and to distribute those assets equitably among all of the investors and creditors. It simply makes sense to have all of the assets, including cash, property, and all of the claims related to the underlying fraud, in the same place. By formally including the Wammel Defendants in the receivership and asset freeze, the Court can ensure that it has the authority and the assets to make an equitable distribution.

II. BACKGROUND

A. Course of Judicial Proceedings

1. On May 15, 2017, Plaintiff, the Securities and Exchange Commission (“SEC”), filed its application for the appointment of a receiver for Defendants, Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (the “SEC Application”).

2. Specifically, Bryant and BUCF promised investors their funds would be safely preserved in secure escrow accounts and used for the sole purpose of serving as proof of funds to enable BUCF to secure a line of credit with which to pursue a mortgage-related investment program resulting in 30% returns. As Bryant, BUCF, and Wammel knew, these promises were false. No secure escrow accounts existed, and there was no mortgage-related investment program. Complaint, Dkt. No. 1 (the “Complaint”), at ¶ 3. In reality, and directly contrary to representations they made, the Receivership Defendants commingled investor funds in a single deposit account controlled by Bryant, from which he, among other things, (a) funneled approximately \$16.2 million to the Wammel Defendants; (b) misappropriated \$4.8 million to fund his personal living expenses; (c) transferred \$1.37 million to Relief Defendant Goodspeed; and (d) paid out at least \$140,000 to Relief Defendant Bryant, Jr., all without investors’ consent or knowledge. *Id.*

3. On May 15, 2017, after the Court’s review of the SEC Application and upon the Court’s conclusion that the Court has subject matter jurisdiction over this case and personal jurisdiction over the Defendants, the Court determined that entry of an order appointing a receiver over the Defendants was both necessary and appropriate to marshal, conserve, hold and operate all of the Defendants’ assets pending further order of the Court. Accordingly, the Court entered the Receivership Order on May 15, 2017, naming Jennifer Ecklund as the Receiver over the Receivership Estates. The same day, the Court entered the TRO.

4. The Receivership Order provided the following in paragraph 16:

All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, an[y] of the Receivership Defendants that receive actual notice of this Order by personal service, facsimile transmission or otherwise shall: (A) Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Defendants except upon instructions from the Receiver; (B) Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without permission of this Court; (C) Within five (5) business days of receipt of that notice, file with the Court and serve on the Receiver and counsel for the SEC a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date or receipt of the notice; and, (D) Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

5. Understanding that funds rightfully belonging to BUCF may surreptitiously be in the possession of third parties, the TRO provided the following in paragraph 15:

Defendants and their officers, agents, servants, employees, attorneys, *and all persons* in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from, directly or indirectly, making any payment or expenditure of funds, incurring any additional liability (including, specifically, by advance on any line of credit and any charges on any credit card), or effecting any sale, gift, hypothecation or other disposition of any asset, pending provision of sufficient proof to the Court of sufficient funds or assets to satisfy all claims alleged in the SEC's Complaint (emphasis added)

6. The SEC negotiated and the Court entered on [June 2, 2017] the *Agreed Order Granting Preliminary Injunction and Other Relief* [Dkt No. 27] (the “**Agreed Preliminary Injunction**”) among Defendant Bryant, the Receiver, and the SEC.

7. On June 8, 2017, the Wammel Relief Defendants filed an Answer to the Complaint [Dkt. No. 29].

8. On June 9, 2017, Relief Defendant Thurman P. Bryant, Jr. filed an Answer to the Complaint [Dkt. No. 30].

9. On July 10, 2017, Bryant filed an Answer to the Complaint [Dkt. No. 40]. Pursuant to the Receivership Order, the Receiver is charged with marshaling and preserving all the assets of the Defendants.

10. After the TRO was granted, the SEC provided notice of the Receivership Order and TRO to the Wammel Defendants.

11. On June 2, 2017, the Receiver provided notice of the Preliminary Injunction to the Wammel Defendants. *See* June 16, 2017 E-mail from Receiver's Counsel K. Clark to the Wammel Defendants' Counsel T. Galloway (attaching Preliminary Injunction, attached hereto as **Exhibit A-30**).

12. Since her appointment, the Receiver has conducted an initial review of the Receivership Defendants' and Wammel Defendants' businesses and has started her investigation into their business model. *See* Declaration of J. Ecklund at ¶ 4, attached hereto as **Exhibit A**.

13. Likewise, the Receiver has taken steps to collect, marshal, and take control over the Receivership assets pursuant to this Court's directives. *Id.* The Receiver incorporates, as if fully set forth herein, her Initial Status Report, filed June 14, 2017 [Dkt. No. 32], which details the work the Receiver performed in accordance with the Receivership Order in the first thirty days following her appointment.

B. The Wammel Defendants Participated in the Fraud with the Receivership Defendants

14. Bryant and Wammel have a long history of working together dating back to 2007—first through Bryant's mortgage company, then creating separate investment schemes that

depended on and related to one another. Exhibit A, Declaration of J. Ecklund (“**Ecklund Declaration**”) at ¶ 7.

15. Since at least March 2011, BUCF and Bryant, BUCF’s CEO and President, have raised approximately \$22.7 million from approximately 100 investors in Texas and other states, through materially false and misleading statements and omissions. Complaint at ¶ 2.

16. Since at least 2011, Wammel Group and Wammel, Wammel Group’s owner, have raised approximately \$28.6 million from approximately 16 investors. Complaint at ¶ 48. In addition, Bryant invested over \$16.2 million in BUCF investor funds in Wammel Group. Exhibit A, Ecklund Declaration at ¶ 9.

i. The Receivership Defendants and the Wammel Defendants were intertwined.

17. The Receivership Defendants and the Wammel Defendants created a web of interlocking entities that they utilized in connection with the investment scheme out of which this case arises. Exhibit A, Ecklund Declaration at ¶ 5.

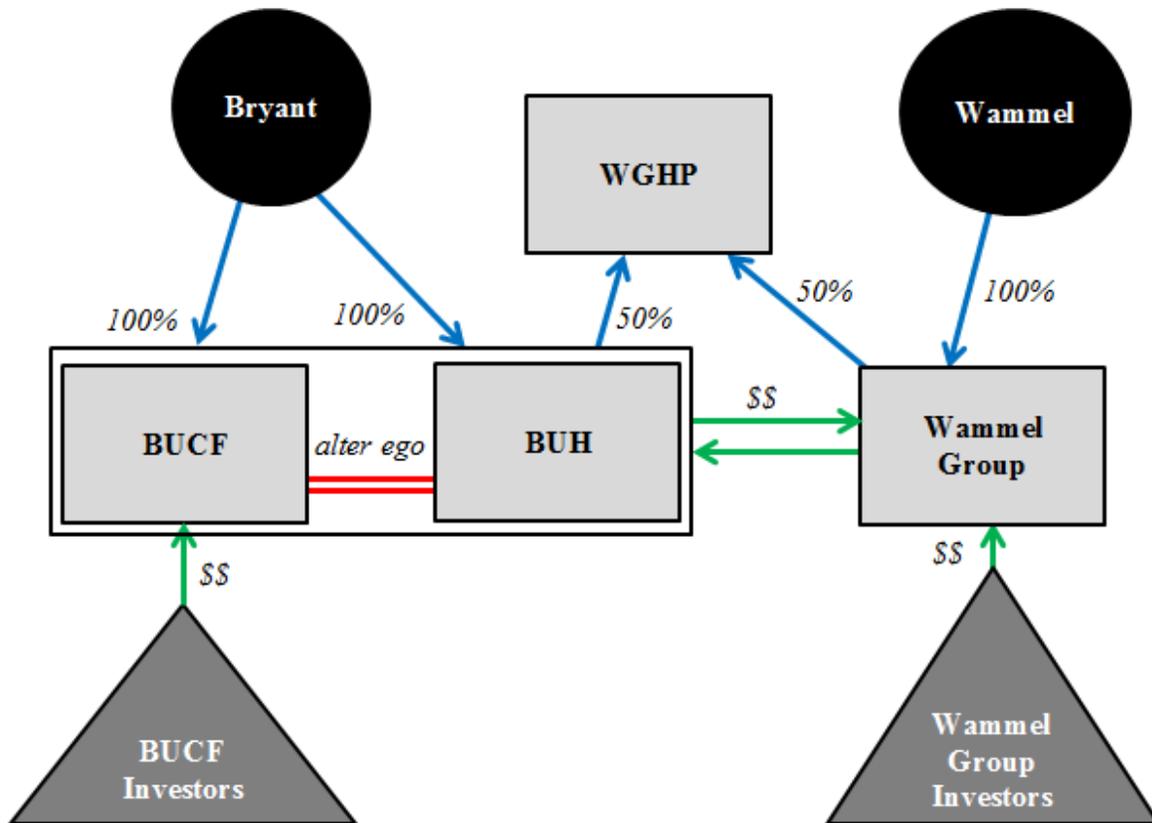
18. One entity—BUCF—offered and sold securities to investors. Complaint at ¶ 2. Other entities—Bryant United Holdings, Inc. dba Bryant United, dba Bryant Financial, dba Bryant United Realtors (“**BUH**”),¹ WGHP, and the Wammel Group—acted as conduits through which investor money flowed. Each of these entities was owned or controlled by Bryant and/or Wammel who worked in concert to defraud investors. Exhibit A, Ecklund Declaration at ¶ 6. Each should formally be part of the receivership.

19. As reflected in the documents and bank records obtained and reviewed by the Receiver, her counsel, and her forensic accountants, (1) investors would transfer money to

¹ See BUH National Mortgage Licensing System Details (listing Bryant Financial and BUCF as “Other Trade Names” for BUH), attached hereto as **Exhibit A-28**; see also Bryant Financial Financial Statements dated March 31, 2012 (“Bryant United Holdings, Inc./dba Bryant Financial”), attached hereto as **Exhibit A-41**.

BUCF, (2) BUCF would transfer money to the Wammel Group, (3) the Wammel Group would commingle such monies with the Wammel Group investor funds, and (4) the Wammel Group would eventually transfer funds back to BUCF. Exhibit A, Ecklund Declaration at ¶ 8; Exhibit B, Declaration of B. Kleinman (“**Kleinman Declaration**”) at ¶ 6.

20. The chart below is a simplified graphic of the entities involved in the scheme and how funds from investors flowed through the Receivership Defendants and Wammel Defendants:



21. In transferring monies between the entities, the Wammel Group and BUCF would “counterbalance,” which is necessary to understand in order to obtain an accurate picture of the full amount of transfers between BUCF and the Wammel Group.

22. For example, in December 2016 the Wammel Group reported that it was transferring \$697,405.00 back to BUCF in purported returns. *See* December 1, 2016 E-mail from A. Wammel to T. Bryant, attached hereto as **Exhibit A-22**. In the same communication, the Wammel Group reported the receipt from BUCF of an additional \$50,000.00 in BUCF initial investments. *See id.*

23. Thus, the Wammel Group counterbalanced and then only reported a deposit of the difference between the \$697,405.00 and \$50,000.00, \$647,405.00, from the Wammel Group to the BUCF account. *See id.* Failure to account for such counterbalancing could result in an understatement in the funds transferred from BUCF to the Wammel Group. Such counterbalancing further evidences the failure of the entities to accurately account for transfers between the entities.

24. According to records seized by the Receiver, Bryant and Wammel created a separate entity in furtherance of the fraud (linking Wammel to the Bryant and BUCF fraud). This entity—WGHP—was owned as follows:

Name	Capital Contribution and % Ownership Interest
Bryant United Holdings, Inc.	\$200,000.00 at 50%
Wammel Group, LLC	\$0.00 at 50%

See General Partnership Agreement of Wammel Group Holdings Partnership, attached hereto as **Exhibit A-11**,² *see also* Activity Statements related to the partnership created by the Receivership Defendants and Wammel Defendants from June 2010 through March 2014 corresponding with the above ownership interests and confirming the above venture (the

² Although no executed version of the WGHP agreement has been produced to-date, Wammel sent the WGHP to Bryant for his signature in 2010. *See* August 18, 2010 E-mail from A. Wammel to T. Bryant attaching WGHP Partnership Agreement, attached hereto as **Exhibit A-29** (BUCFN00514304).

“**Activity Statements**”), attached hereto as **Exhibit A-12**. The General Partnership Agreement reflects that the “Business of the Partnership” as:

The purpose and character of the business of the Partnership shall be to invest in stocks, options, and various [derivative] contracts and to engage in any and all activities related or incidental to carrying out the foregoing, and to conduct and engage in any and all activities permitted by law in furtherance of the business of the Partnership.

See id.

25. As reflected in the Activity Statements, titled “Activity Statement of Bryant United Holdings, Inc.” (which actually detail and confirm the partnership between the Receivership Defendants and the Wammel Defendants), the following terms are used to show transfers purportedly between BUH and the Wammel Group (which are actually between BUCF and the Wammel Group):

- “Initial Investment[s],”
- “Gross Monthly Income,”
- “Withdrawals,”
- “Ownership,” and
- “Account Activity.”

See Activity Statements, attached hereto as **Exhibit A-12**. Such Activity Statements were sent by Wammel to Bryant on a monthly basis. *See* March 31, 2014 E-mail from A. Wammel to T. Bryant, attaching March 2014 Activity Statement, attached hereto as **Exhibit A-13**.

26. Furthermore, monthly balances of the “Initial Investment[s]” and “Account Activity” from such Activity Statements tie to BUCF’s bank records, further linking the Wammel Defendants to the underlying fraud and proving that BUH was, in fact, the alter ego of BUCF. *See id*; *see* Veritas Comparison of Bryant United Holding, Inc. Activity Statements and

Transfers Between BUCF and the Wammel Group, attached hereto as **Exhibit B-1**; *see also* Exhibit B, Kleinman Declaration at ¶ 5.

27. Although the Activity Statements are titled for BUH, they actually reflect the activities of WGHP and represent monies flowing from BUCF to the Wammel Group. These Activity Statements and the Receiver's Forensic Accountants' analyses of the same support that BUH and WGHP were knowingly used by Bryant and Wammel as a conduit for BUCF investor funds to further the investment scheme.

28. When Bryant began operating through BUCF, he notified Wammel. *See* July 25, 2011 E-mail from T. Bryant to A. Wammel providing him with the new BUCF entity and bank information, attached hereto as **Exhibit A-18** (BUCFN00185156).

29. Wammel used Bryant's investor agreement template to create his own agreement for Wammel Group investors. *See* August 23, 2013 E-mail from T. Bryant to A. Wammel (sending Wammel the BUCF investor contract), attached hereto as **Exhibit A-35** (BUCFN00334975).

30. Bryant and Wammel worked closely together, using all of their entities interchangeably, and frequently failed to differentiate in or distinguish between who worked for what entity. *See* Exhibit A, Ecklund Declaration at ¶ 7. For example, Bryant created statements for Wammel Group and Wammel created documents and statements for BUH and BUCF. *See* August 15, 2013 E-mail from T. Bryant to A. Wammel creating Wammel Group monthly statements, attached hereto as **Exhibit A-19** (BUCFN00815160-83); *see* February 14, 2013 E-mail from A. Wammel to T. Bryant (discussing creating pay stub), attached hereto as **Exhibit A-20** (BUCFN00294331); *see also*, February 14, 2013 E-mail from A. Wammel as CFO to Keller Williams Realty regarding T. Bryant, attached hereto as **Exhibit A-21** (BUCFN00294396).

31. The nature of the structure and operations between the Receivership Defendants and the Wammel Defendants reflects that they were interdependent.

ii. The Wammel Defendants received significant transfers from the Receivership Defendants.

32. From July 2011 through April 2017, BUCF transferred \$16,229,944 from BUCF to the Wammel Group.³ See Veritas Summary of Investor Funds and Returns Transferred Between BUCF and the Wammel Group, attached hereto as **Exhibit B-2**; see also Exhibit B, Kleinman Declaration at ¶ 10. The returns or earnings expected to be transferred back to BUCF from the Wammel Group for the benefit of investors based upon documentation and representations provided to BUCF investors would be an additional \$11,825,997 (*i.e.* 30% return on investment). When combined with the initial investment of \$16.2 million the total amount of funds that should have been returned equals \$28 million. See Veritas Summary of Investor Funds and Returns Transferred Between BUCF and the Wammel Group, attached hereto as **Exhibit B-2**; see also Exhibit B, Kleinman Declaration at ¶ 10. However, the Wammel Group transferred only \$15,887,588 back to BUCF (of the \$28 million expected) through April 2017, accounting for some purported earnings and principal but not fully accounting for the amount of principal transferred to the Wammel Group. See Veritas Summary of Investor Funds and Returns Transferred Between BUCF and the Wammel Group, attached hereto as **Exhibit B-2**; see also Exhibit B, Kleinman Declaration at ¶ 10. **Thus, the Wammel Group should hold \$12,168,353 in principal from BUCF investor funds.** See Veritas Summary of Investor Funds and Returns Transferred Between BUCF and the Wammel Group, attached hereto as **Exhibit B-2**; see also Exhibit B, Kleinman Declaration at ¶ 10.

³ This accounts for over 70% of the total funds obtained from BUCF investors.

iii. The Wammel Defendants commingled BUCF investor funds with Wammel Group investor funds.

33. Wammel commingled Wammel Group investors' funds with BUCF investors' funds. The Wammel Defendants used the majority of the \$16.2 million of BUCF investor capital received, commingled with \$28.6 million in funds raised from the Wammel Defendants' own investors, to fund speculative options and securities trading. Complaint at ¶ 48; *see* Exhibit A, Ecklund Declaration at ¶ 9. The Wammel Defendants received BUCF investor funds and commingled them with money raised from the Wammel Group's non-BUCF investors in order to facilitate the interrelated Ponzi schemes to: (a) make distributions to BUCF; (b) make distributions to the Wammel Group's investors; and (c) fund high-risk investment schemes, including speculative options trading by Wammel, since at least 2011. Complaint at ¶ 5; Exhibit B, Kleinman Declaration at ¶ 8. The Wammel Group does not have, and never has had, any legitimate claim to the funds it received from BUCF. *Id.*

iv. The Wammel Defendants dissipated assets.

34. According to records of the Wammel Group's investment accounts held at OptionsXpress, the Wammel Group had an ending cash balance of \$9 million and account value of \$7.1 million in December 31, 2016. *See* OptionsXpress Account Statement for the Wammel Group dated December 31, 2016, attached hereto as **Exhibit A-24**; *see also* Veritas Summary of Wammel OptionsXpress Account 0502-2959, attached hereto as **Exhibit B-3**.

35. In January, February, and March 2017, the account value dropped to \$4.7 million, \$2.3 million, and \$1.6 million respectively. *See* OptionsXpress Account Statement for the Wammel Group dated January 31, 2017, attached hereto as **Exhibit A-36**; *see* OptionsXpress Account Statement for the Wammel Group dated February 28, 2017, attached hereto as **Exhibit**

A-37; *see* OptionsXPress Account Statement for the Wammel Group dated March 31, 2017, attached hereto as **Exhibit A-38**.

36. As of the end of April 2017, the Wammel Group investment account at OptionsXPress had been dissipated to \$454,270 in total account value. *See* OptionsXPress Account Statement for the Wammel Group dated April 30, 2017, attached hereto as **Exhibit A-25**; *see also* Veritas Summary of Wammel OptionsXpress Account 0502-2959, attached hereto as **Exhibit B-3**.

37. As of the end of May 2017, the Wammel Group investment account at OptionsXPress had been dissipated to \$200,546.85 in total account value. *See* OptionsXPress Account Statement for the Wammel Group dated May 31, 2017, attached hereto as **Exhibit A-26**; *see also* Veritas Summary of Wammel OptionsXpress Account 0502-2959, attached hereto as **Exhibit B-3**.

38. As of the end of June 2017, the account balance of the Wammel Group investment account at OptionsXPress had \$213,570.89 in value. *See* OptionsXPress Account Statement for the Wammel Group dated June 30, 2017, attached hereto as **Exhibit A-27**; *see also* Veritas Summary of Wammel OptionsXpress Account 0502-2959, attached hereto as **Exhibit B-3**.

39. Thus, the Wammel Group has dissipated assets from December 2016 to June 2017 of over \$7 million. *See* Exhibit B, Kleinman Declaration at ¶ 11. Due to such rapid dissipation of assets, the Receiver must take immediate action.

v. Wammel and Bryant Personally Benefitted

40. Bryant misappropriated \$4.8 million of BUCF investor funds to fund his personal living expenses. Complaint at ¶ 3.

41. Wammel withdrew or transferred to himself over \$5.5 million of commingled BUCF investor funds and Wammel Group investor funds from 2011 to 2017. *See* Veritas Summary of Withdrawals from Wammel Group, LLC, attached hereto as **Exhibit B-4**; *see also* Exhibit B, Kleinman Declaration at ¶ 12.

42. Although Wammel more adequately adhered to the entity structure of the Wammel Group than Bryant with BUCF, he used it as a flow through to pay for his personal expenses. In one instance, Wammel purchased an asset (his wife's home at 4607 Hispania View Drive, League City, Texas 77673 (the "**Wammel Home**")), using Wammel Group account funds (with commingled BUCF investor funds and Wammel Group investor funds) but vesting title to himself, individually. *See* Property Detail Report for the Wammel Home, attached hereto as **Exhibit A-39**; *see also* Wells Fargo August 31, 2016 Bank Statement of Wammel Group (reflecting purchase of home for \$339,357.94), attached hereto as **Exhibit A-40**. In addition, Wammel used his personal address as his business address. *See* August 15, 2013 E-mail from T. Bryant to A. Wammel creating Wammel Group monthly statements, attached hereto as **Exhibit A-19** (BUCFN00815160-83). Together, these facts show that Wammel failed to maintain his business separate from his personal assets.

43. Like Bryant, Wammel's personal gain from the receipt of proceeds from the BUCF investor scheme shows his participation in the fraud and reflects the necessity of his inclusion in the Receivership Estate.

C. Further Evidence Demonstrates the Improprieties Involved and the Needs to Expand the Receivership

i. Wammel worked for Bryant.

44. In addition, Wammel worked for and with Bryant. Wammel held varying positions at Bryant Financial. Wammel was the Chief Operating Officer of Bryant Financial or BUH as early as February 2008. *See* February 20, 2008 E-mail from A. Wammel to T. Bryant clarifying position as COO of Bryant Financial and attaching business card, attached hereto as **Exhibit A-1** (BUCFN00033629-30, BUCFN00033839); *see* February 21, 2008 E-mail from T. Bryant to A. Wammel confirming position as COO, attached hereto as **Exhibit A-2** (BUCFN00033639). Wammel was the Chief Investment Officer of Bryant Financial or BUH in 2011. *See* November 10, 2011 E-mail from A. Wammel with signature block of Chief Investment Officer, attached hereto as **Exhibit A-3** (BUCFN002058659). Wammel also held himself out as the Chief Financial Officer of BUH and BUCF. *See* Employment Verification to North Star Property Management confirming T. Bryant's salary with A. Wammel's signature as CFO of BUH and BUCF, attached hereto as **Exhibit A-4** (BUCFN00294256).⁴

ii. Wammel had knowledge of Bryant's representations to BUCF investors.

45. Among other things, BUCF and Bryant promised investors guaranteed minimum annual returns of 30% on risk-free investments Bryant represented he would make in the mortgage industry. Complaint at ¶ 2. Wammel knew that Bryant communicated that such investments would be in the mortgage industry. *See, e.g.*, July 15, 2011 E-mail from T. Bryant to investor copying A. Wammel discussing mortgage investment, attached hereto as **Exhibit A-5**

⁴ Wammel also e-mailed property companies as CFO on Bryant's, BUH's, and BUCF's behalf in 2013 sending paystubs and asset statements that Bryant asked Wammel to "make it look legit." *See* February 14, 2013 E-mail from A. Wammel to T. Bryant (discussing creating pay stub), attached hereto as **Exhibit A-20** (BUCFN00294331); *see also*, February 14, 2013 E-mail from A. Wammel as CFO to Keller Williams Realty regarding T. Bryant, attached hereto as **Exhibit A-21** (BUCFN00294396).

(BUCFN00182720); *see also*, October 26, 2011 E-mail from T. Bryant to A. Wammel (“Please let me know if anyone in cabo if they might be interest in our mortgage wholesale escrow account...The CEO of Bryant united capital funding will be more than happy to talk with them.....) I will cater a program that fits their needs.....”), attached hereto as **Exhibit A-3** (BUCFN00200859).

46. Bryant communicated the investment options he offered to investors to Wammel. He further communicated that investors were promised returns of 30%. *See* September 7, 2010 E-mail from T. Bryant to A. Wammel re investment options to pose to investors, attached hereto as **Exhibit A-7** (BUCFN00114917).

47. Wammel provided input as to how to structure investments and payouts to investors. *See* February 15, 2011 E-mail from A. Wammel to T. Bryant regarding the structure and payouts of investments, attached hereto as **Exhibit A-31** (BUCFN00156644).

48. Bryant knew that Wammel was not actually investing BUCF monies in the mortgage industry (as promised to investors) but was instead using the funds for option trading. *See* February 1, 2011 E-mail from A. Wammel to T. Bryant (attaching account statement of OptionsXpress account reflecting Bryant’s knowledge of Wammel’s involvement in options trading), attached hereto as **Exhibit A-8** (BUCFN00154196-99).

49. Although Bryant was at the forefront of communications with BUCF investors, Bryant communicated account statements, investment contracts, and detailed information regarding investors to Wammel, further reflecting Wammel’s knowledge in the underlying representations made to investors. *See, e.g.* February 1, 2011 E-mail from T. Bryant to A. Wammel regarding specific investors, attached hereto as **Exhibit A-9** (BUCFN00154168); *see*

also, June 24, 2011 E-mail from T. Bryant to A. Wammel regarding investment contract terms for his review, attached hereto as **Exhibit A-10** (BUCFN00178464).

iii. Wammel falsified documents.

50. In further support of the impropriety that existed between Bryant and Wammel, one need look no further than the deliberate falsification of documents for the express purpose of misleading others.

51. Specifically, together Wammel and Bryant falsified documents—

- for the Wammel Group, *see* August 15, 2013 E-mail from T. Bryant to A. Wammel creating Wammel Group monthly statements, attached hereto as **Exhibit A-19** (BUCFN00815160-83);
- for Bryant's ability to purchase assets, *see* February 14, 2013 E-mail from A. Wammel to T. Bryant (discussing creating pay stub), attached hereto as **Exhibit A-20** (BUCFN00294331); *see also*, February 14, 2013 E-mail from A. Wammel as CFO to Keller Williams Realty regarding T. Bryant, attached hereto as **Exhibit A-21** (BUCFN00294396); *see also*, March 23, 2015 E-mail from T. Bryant to A. Wammel (requesting fake paystubs), attached hereto as **Exhibit A-33** (BUCFN00892654); and
- for BUCF's earnings, *see* July 23, 2013 E-mail from T. Bryant to A. Wammel (attaching doctored earnings statement for BUCF), attached hereto as **Exhibit A-34** (BUCF00331911).

iv. Wammel invested commingled funds in high risk options.

52. Notwithstanding the facts that the Wammel Defendants should never have received the funds in the first place, the Wammel Group's options trading receipts from 2011

through 2016 totaled only about \$5.9 million—well short of the sum required to pay BUCF investors the 30% returns they were promised. Complaint at ¶ 6. Trading records from 2017 reflect even more severe losses. To date, BUCF has transferred \$16.2 million in BUCF investor monies to the Wammel Group, and the Wammel Group has returned \$15.8 million to BUCF in fictitious earnings. Exhibit B, Kleinman Declaration at ¶ 9. This \$15.8 million is comprised of funds received from BUCF, funds raised from the Wammel Group’s non-BUCF investors, its limited trading profits, and other sources—all of which the Wammel Group commingled. *Id.*

53. Notably, the Wammel Group ceased tendering monthly distributions to BUCF on or about April 1, 2017, soon after the SEC subpoenaed Wammel and the Wammel Group for documents related to the relationship with Bryant and BUCF. Complaint at ¶ 23. In April 2017, Wammel withdrew at least \$290,000 from Wammel Group options trading accounts he controls and which contain, or contained, ill-gotten gains obtained from BUCF and, indirectly, BUCF investors. *Id.*

54. Despite the misuse of BUCF investor funds in options trading, the Wammel Defendants’ performance in the options market varied wildly, and from 2011 to 2016 it received only \$5.9 million from trading and suffered severe losses in 2017. Complaint at ¶ 49. Apart from options and securities trading, Wammel Group made approximately \$300,000 from other investments using BUCF investor monies, including investments in two car dealerships, a boat and RV storage facility, and two luxury rental cars—all without BUCF investors’ consent. *Id.* Like Wammel Group’s options trading, these other investments deviate from BUCF’s purported short-term mortgage lending business. *Id.*

55. The Wammel Group’s revenues from trading and other activities were not sufficient to generate BUCF’s promised 30% investor returns. Complaint at ¶ 50. While the

Wammel Group paid \$15.8 million to BUCF between 2011 and 2017 as *purported returns on investments* (or earnings), in reality those funds were comprised of (1) the \$5.9 million in receipts from the Wammel Group's options and securities trading; and (2) ill-gotten investor funds obtained from BUCF; and (3) funds raised from the Wammel Group's own, non-BUCF investors.

v. Wammel pled the Fifth Amendment in response to the SEC's discovery.

56. On May 18, 2017, the SEC served its First Set of Interrogatories to the Wammel Defendants. Plaintiff's First Set of Interrogatories to Relief Defendants Arthur F. Wammel and Wammel Group, LLC, attached hereto as **Exhibit A-14**; Plaintiff's First Document Request to Relief Defendants Arthur F. Wammel and Wammel Group, LLC, attached hereto as **Exhibit A-15**.

57. On May 22, 2017, the Wammel Defendants responded with a limited document production and by "invok[ing] the Fifth Amendment privilege against self-incrimination and declin[ing] to answer" the all four interrogatories—such interrogatories requested information regarding Wammel Group investor information, transfers between BUCF and the Wammel Group, and representations between the Receivership Defendants and the Wammel Defendants. Relief Defendants Arthur F. Wammel and Wammel Group, LLC's Response to Plaintiff's First Set of Interrogatories, attached hereto as **Exhibit A-16**; Relief Defendants Arthur F. Wammel and Wammel Group, LLC's Response to Plaintiff's First Document Request, attached hereto as **Exhibit A-17**.

58. The investors are prejudiced by Wammels' decision to invoke the Fifth Amendment because Wammel has failed to preserve evidence and Wammel is the only person

who possesses information regarding the status and involvement of these entities, thereby preventing the Receiver from discovering such relevant information.

vi. Wammel refuses to comply with the Receivership Order and has failed to preserve evidence.

59. Despite having received the Receivership Order, the Wammel Defendants have not provided any accounting to the Receiver of the funds that the Wammel Defendants received from entities covered by the Receivership in violation of paragraph 16 of the Receivership Order and paragraph 15 of the TRO.

60. Moreover, during the Federal Rule of Civil Procedure Rule 26(f) Conference, the Wammel Defendants' counsel represented that computers used by the Wammel Group during the relevant time frame had either been disposed of or were no longer able to be located. This was the first notification of any such destruction or disposal of relevant evidence and further confirms the needs for this emergency request to ensure all evidence is preserved.

**III.
ARGUMENT**

A. The Receiver moves for *ex parte* emergency relief under Federal Rule of Civil Procedure 65(b).

This Motion should be granted *ex parte* in order to avoid further erosion of assets rightfully belonging to the Receiver and BUCF and to preserve potentially relevant evidence. Rule 65(b) of the Federal Rules of Civil Procedure provides that the Court may grant an *ex parte* temporary restraining order upon a showing of “irreparable injury” and “reasons supporting the claim that notice should not be required.” The Receivership Order provided in paragraph 16 that “all . . . persons or entities which have possession . . . of any asset or funds . . . of the Receivership Defendants . . . shall [] not liquidate, transfer, sell, convey, or otherwise transfer

[such assets or funds].” The Wammel Defendants dissipation of over \$8 million cash and \$7 million in total value of the assets of the Receivership Defendants’ funds directly violates the Receivership Order.

As detailed above, there is ample evidence of irreparable injury that has and will continue to accrue to BUCF absent a temporary restraining order prohibiting the Wammel Defendants’ further dissipation of assets and authorizing the Receiver to conduct an unimpeded accounting examination to reclaim more BUCF assets. This temporary restraining order must be obtained *ex parte* given the Wammel Defendants’ recent dissipation of assets and total disregard for Judge Mazzant’s Receivership Order and TRO. Further, the Receiver respectfully requests that the Court consider this request on an emergency basis. The Receiver therefore requests pursuant to Local Rule CV-7(l) that the Court hold an immediate *ex parte* hearing on this Motion.

Any notice to the Wammel Defendants would likely trigger the hastened dissipation and transfer of assets. Wright & Miller explain that the *ex parte* TRO is ideal for situations like this one and may cause the further disposal or destruction of evidence:

The *ex parte* temporary restraining order is indispensable to the commencement of an action when it is the sole method of preserving a state of affairs in which the court can provide effective final relief. Immediate action is vital when imminent destruction of the disputed property, its removal beyond the confines of the state, or its sale to an innocent third party is threatened. In these situations, giving the defendant notice of the application for an injunction could result in an inability to provide any relief at all.

11A Charles A. Wright and Arthur R. Miller, *Federal Practice and Procedure* § 2951 at 257 (1995). Under Rule 65(b), courts typically require a showing of irreparable injury, consideration of public interest, a relative weighing of the harm with and without the injunctive relief, and a showing of likelihood of success on the merits. *Garcia v. United States*, 680 F.2d 29, 31 (5th

Cir. 1982); *Dilworth v. Riner*, 343 F.2d 226, 229 (5th Cir. 1965) (temporary restraining order is generally issued *ex parte*).

B. The Receiver moves to expand the receivership over the Wammel Defendants.

The SEC brought this suit under the federal securities laws in order to enforce the law and to protect investors from further harm. In so doing, the SEC acts “not as an ordinary litigant, but as a statutory guardian charged with safeguarding the public interest in enforcing the securities laws.” *SEC v. Mgmt. Dynamics, Inc.*, 515 F.2d 801, 808 (2d Cir. 1975). A significant objective of this case (and the Receiver’s charge) is to ensure that all available assets are brought within the receivership so that they may be properly distributed to creditors, including investors. *SEC v. Elmas Trading Corp.*, 620 F. Supp. 231, 234 (D. Nev. 1985), *aff’d* 805 F.2d 1039 (9th Cir. 1986). This Court is thus, afforded great discretion in ordering the affairs of the estate. *SEC v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 328 (5th Cir. 2001).

An aspect of this discretion is the ability to expand the existing receivership to include (1) parties who participated in the fraud with the Receivership Defendants, and (2) parties affiliated with the Receivership Defendants. *See Elmas Trading Corp.*, 620 F. Supp. at 234-35; *also SEC v. Private Equity Mgmt. Group, Inc.*, No. CV 09-2901, 2009 WL 3074604, at *5 (C.D. Cal. 2009); *see SEC v. Nadel*, No. 8:09-cv-87-T-26TBM, 2013 WL 2291871, at *2 (M.D. Fla. May 24, 2013); *see also, SEC v. Torchia*, No. 1:15-cv-3904-WSD, 2016 WL 6212002, at *1-2 (N.D. Ga. Oct. 25, 2016).

1. *The Court should expand the Receivership to include parties who participated in the fraud with the Receivership Defendants.*

The Receiver’s investigation has uncovered that the Wammel Defendants were substantial facilitators of the Receivership Defendants’ activities and assisted in and participated

with the Receivership Defendants in defrauding investors. Indeed, the Receiver's investigation has uncovered a consistent, systematic plan to defraud investors utilizing the Wammel Defendants and various BUCF entities.

The blueprint for the Wammel Defendants' level of participation in the fraud is starkly defined by the flow of investor funds to the Wammel Defendants: the Wammel Group received over 70% of misappropriated funds, and Wammel, individually, received over \$5 million of such commingled funds. The result was that approximately 70% of BUCF investor monies for the period July 2011 through April 2017 were funneled to the Wammel Defendants. The Wammel Defendants profited from the monies transferred to them from the BUCF investment scheme. Moreover, Wammel had knowledge of the underlying representations made by Bryant to BUCF investors and assisted Bryant in setting up the intricate web of interdependent entities. Accordingly, because the Wammel Defendants played an integral part in aiding the Receivership Defendants to defraud investors and participated in the fraud, the assets of the Wammel Defendants should be administered by the Receiver for the ultimate benefit of the defrauded investors.

Expansion of the receivership estate is proper although the non-receivership entity is not an alter ego of the receivership entities, where the non-receivership entity used scheme proceeds to generate profit. *See SEC v. Nadel*, No. 8:09-cv-87-T-26TBM, 2013 WL 2291871, at *2 (M.D. Fla. May 24, 2013) (finding the third party's receipt of scheme proceeds to generate profit constituted participation in the fraud warranting expansion over the third party); *see also, SEC v. Torchia*, No. 1:15-cv-3904-WSD, 2016 WL 6212002, at *1-2 (N.D. Ga. Oct. 25, 2016). Here, Wammel used proceeds from the BUCF scheme to generate profit for Wammel Group and himself. As evidenced by the Wammel Defendants' rapid dissipation of assets, the value

remaining within the Wammel Defendants will be lost to all investors if the assets are not preserved and maintained going forward.

Further, that the Wammel Defendants have asserted the Fifth Amendment in response to discovery by the SEC seeking information regarding the status of their assets and involvement in the BUCF scheme further supports inclusion of the Wammel Defendants in the receivership. *See Elmas Trading Corp.*, 620 F. Supp. at 235 (“The Receiver is correct when he notes that [the two men who asserted the Fifth Amendment] may be the only ones who possess the information of the status of these various entities. Thus, this assertion is a pivotal issue in trying to determine whether to include the Receiver’s proposed entities in the Receivership.”).

The granting of equitable relief against the Wammel Defendants is appropriate, even without charging them with any wrongdoing, because they “possess illegally obtained profits but have no legitimate claim to them.” *SEC v. Cherif*, 933 F.2d 403, 414, n.11 (7th Cir. 1991), *cert. denied*, 112 S. Ct. 966 (1992). The appointment of a receiver is a well-established equitable remedy available in SEC enforcement proceedings for injunctive relief. *See, e.g., SEC v. First Fin’l Group of Tex.*, 645 F.2d 429, 438 (5th Cir. 1981). Accordingly, the Receiver requests that the Receivership Order be expanded to include the Wammel Defendants.

2. *The Court should expand the receivership to include entities affiliated with the Receivership Defendants.*

In *Elmas Trading Corp.*, the Court concluded that because the operations between the receivership and other entities were so intertwined, in exercise of discretion an expansion of the receivership was proper. *Elmas Trading Corp.*, 620 F. Supp. at 233, 235, 241 n.3; *see also, SEC v. Creative Capital Consortium, LLC*, No. 08-81565, 2009 WL 10664430, at *1 (S.D. Fla. Sept. 21, 2009) (“Given the government’s interest in preventing violations of federal securities laws,

under which this action arises, it is appropriate for the court to apply a ‘more flexible approach in determining whether the corporate entities should be disregarded.’” (citing *Elmas Trading Corp.*). Factors that should be considered in determining whether to expand the receivership over affiliated entities include:

- (1) The presence of common control or ownership among the defendants and the entities to be included in the receivership,
- (2) The transfer of money or assets between and among the entities in question,
- (3) Common addresses and office locations,
- (4) The records and ledgers of the entities are incomplete and do not conform to standard business practices.

Elmas Trading Corp., 620 F. Supp. at 234-36. The entities that the Receiver seeks to add to the receivership fulfill each of these factors. Wammel, WGHP, and the Wammel Group should be included within the Receivership based on their common control, commingling of assets, and common location.

First, the evidence in this case supports the notion that the Receivership Defendants and the Wammel Defendants were commonly owned and controlled. For example, WGHP, an entity purportedly owned by BUH and the Wammel Group—thus Bryant and Wammel—is commonly owned and controlled by the Receivership Defendants and the Wammel Defendants. This entity, its owners, and assets worked in concert in a common enterprise to conduct fraudulent activities. Moreover, Wammel’s individual involvement and positions held with the Bryant’s entities further demonstrates common control. As previously indicated, Wammel was the COO, CIO, and/or CFO of Bryant Financial or BUH and BUCF.

Second, the transfer of money between the entities is undeniable. The Receivership Defendants and Wammel diverted approximately \$16.2 million from BUCF, through BUH and WGHP, to the Wammel Group. Thereafter, this money was commingled with separate Wammel Group investor funds. The Receivership Defendants and Wammel hid the payment of fees (for their personal benefit) and the source of the funds for those payments in a series of convoluted transactions.

Third, although the Wammel Defendants did not share a common office space or addresses with BUH or BUCF, the fact that Wammel served as the COO, CIO, and/or CFO of Bryant Financial or BUH and BUCF and WGHP was commonly owned by BUH and Wammel Group equitably outweighs the lack of a common physical address when considering the third factor.

Finally, the evidence confirms that Bryant and Wammel deviated from standard business practices by counterbalancing and falsifying documents. The counterbalancing between the Wammel Group and BUCF reflects the failure of the entities to adequately keep records and ledgers reflecting accurate balances transferred between the parties.

Sufficient evidence exists under each of the factors to add the Wammel Defendants to this receivership. Adding the Wammel Defendants benefits all of the investors. The Wammel Group Investors have claims against the Receivership Estate's assets, and the Receivership Estate's creditors and investors have claims to the Wammel Group's and Wammel's assets. The Court can best balance these competing claims if all of the creditors and all of the assets are in a single proceeding. The Court should, therefore, expand the Receivership to include the Wammel Defendants. *Elmas Trading Corp.*, 620 F. Supp. at 234-36.

C. The Receiver moves to extend the freeze order to the Wammel Defendants.

In the course of her investigation, the Receiver has discovered information concerning several entities which were formed, owned, and controlled by Relief Defendants, specifically the Wammel Defendants, and which received substantial sums of money in the form of transfers from BUCF accounts. The Receiver's investigation reveals that the Wammel Defendants control assets which rightfully belong to the defrauded investors of BUCF. The circumstances surrounding the transfer of funds to the Wammel Defendants leads the Receiver to move the Court to extend the asset freeze to include these Relief Defendants.

An asset freeze is necessary against the Wammel Defendants in order to preserve the investor funds, especially given the Wammel Defendants' recent dissipation of assets. An asset freeze "facilitate[s] enforcement of any disgorgement remedy that might be ordered" and may be granted "even in circumstances where the elements required to support a traditional Commission injunction has not been established." *SEC v. Unifund SAL*, 910 F.2d 1028, 1041 (2d Cir 1990).

Courts recognize that an asset freeze is sometimes necessary to ensure that a future disgorgement order will not be rendered meaningless, and the Receiver may request asset freezes against relief defendants who have not yet been accused of violating any federal securities laws. *Janvey v. Adams*, 588 F.3d 831, 835 n.2 (5th Cir. 2009) (quoting *SEC v. Cavanagh*, 155 F.3d 129, 136 (2d Cir. 1998)); *SEC v. Connectajet.com*, No. 3:09-CV-1742-B, 2011 WL 5509896, at *5-6 (N.D. Tex. Nov. 9, 2011); *Warfield v. Arpe*, No. 3:05-cv-1457-R, 2007 WL 549467, at *6 (N.D. Tex. Feb. 22, 2007); *SEC v. Miller*, 808 F.3d 623, 635 (2d Cir. 2015). The Receiver can request an asset freeze against the Wammel Defendants if the Receiver establishes that the funds to be frozen are the ill-gotten product of Bryant's wrongdoing, and that the Wammel Defendants do not have a legitimate claim to those funds. *Janvey v. Adams*, 588 F.3d 831, 835 n.2 (5th Cir.

2009) (quoting *SEC v. Cavanagh*, 155 F.3d 129, 136 (2d Cir. 1998)). From a review of the foregoing and the attached Exhibits, it is clear that the Wammel Defendants were receiving funds which were derived directly from investors in BUCF. These transfers appear to have no legitimate business purpose and appear to have been made in furtherance of the BUCF scam. Accordingly, the Freeze Order should be expanded.

D. The Receiver moves for a temporary restraining order against the Wammel Defendants due to their wanton violations of the Receivership Order and previous TRO.

To obtain a temporary restraining order (like the showing required to obtain *ex parte* relief), the Court will require a showing by the Receiver of (1) irreparable injury, (2) consideration of public interest, (3) a relative weighing of the harm with and without the injunctive relief, and (4) a showing of likelihood of success on the merits.

Under the first factor, the Wammel Defendants' wanton violations of the Receivership Order and TRO in misappropriating BUCF assets readily demonstrates that a temporary restraining order in this case is necessary to prevent further irreparable injury to BUCF. The Wammel Defendants wrongfully converted BUCF funds, both before and after Judge Mazzant enjoined such actions. The Wammel Defendants dissipated over \$7 million in investor monies since December 2016. What is presently known of the Wammel Defendants' behavior is more than enough to warrant entry of this temporary restraining order to track down BUCF assets before they evaporate. But equally important, this behavior also strongly suggests that the temporary restraining order should be entered so that the Receiver can take actions to prevent further dissipation of presently unknown assets.

Second, granting the Receiver's request for a temporary restraining order will serve the public interest by maximizing the assets available to the Receiver in executing the goals of her

appointment. In other words, the requested temporary restraining order will serve the public interest by preventing further conversion of BUCF assets.

Third, it follows that the balance of harm weighs in the Receiver's favor. While the Wammel Defendants will undoubtedly claim great harm will accrue through entry of this TRO, to so find would reward the Wammel Defendants' misdeeds. The required balancing test weighs the equities, and the Wammel Defendants are found wanting. On the other side of the scales of justice are the interests of BUCF investors and the Receiver, who has been appointed to marshal the assets of BUCF wherever they may be found.

Finally, the Receiver can show likelihood of success on the merits on those causes of action that the Receiver will seek to assert against the Wammel Defendants that are relevant to the requested temporary restraining order, namely, fraudulent transfer, conversion, conspiracy, and breach of fiduciary duty. Specifically, on the claim for fraudulent transfer, the Receiver will prevail because the Wammel Defendants are in receipt of funds directly traceable to the BUCF investors (without good cause or having provided reasonably equivalent value). Furthermore, the facts as set forth herein show an unjustified, willful interference on the part of the Wammel Defendants with BUCF's possession and use of its property. The Wammel Defendants converted funds. Similarly, the Wammel Defendants' acts additionally constitute civil conspiracy because they collaborated with one another and Bryant/BUCF in systematically carrying out their plans. The Wammel Defendants also owed fiduciary duties to BUCF, and their acts constitute a breach of those duties. The Wammel Defendants' mismanagement, appropriation, and waste of BUCF assets were blatant violations of these important duties. Thus, success on the merits of BUCF's claims is likely.

The conclusion that the Wammel Defendants' actions present issues worthy of more deliberate action is self-evident. As set forth above, the evidence currently known to the Receiver indicates that the Wammel Defendants likely have exclusive possession, custody, and control of a significant portion of BUCF assets. Further, it is reasonable to conclude that these assets are in danger of being utterly wasted in the near term absent Court intervention. Such a dissipation of BUCF assets would have devastating effect on the ability of the Receiver, as an officer of the Court, to achieve the Court's objectives as set forth in the Receivership Order.

IV. CONCLUSION

For the foregoing reasons, the Receiver respectfully requests that this Court issue an order that provides for the following relief:

- (1) That the Court amend and expand the Receivership Order to include the Wammel Defendants;
- (2) That the Court freeze the assets of the Wammel Defendants; and
- (3) That the Court temporarily and preliminarily enjoin the Wammel Defendants from further violated the Receivership Order and pursuant thereto.

Dated: July 19, 2017.

Respectfully submitted,

By: /s/ Timothy E. Hudson

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PROPOSED COUNSEL TO RECEIVER

2. I am the Court-appointed Receiver (the “**Receiver**”) for Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (collectively, the “**Defendants**”) receivership estates (together, the “**Receivership Estate**” or the “**Receivership**”) in this case.

3. I submit this Declaration in support of the *Ex Parte Emergency Motion to Expand the Receivership and Asset Freeze Against the Wammel Defendants, for Temporary Restraining Order, and for Preliminary Injunction and Brief in Support*.

4. Since my appointment, my team and I have worked diligently to investigate the Defendants’ business model, and to begin the process of collecting, marshaling, and taking control over the Receivership Property pursuant to this Court’s directives.

5. Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (“**BUCF**”) (collectively, Bryant and BUCF, the “**Receivership Defendants**”) and Relief Defendant Arthur F. Wammel (“**Wammel**”), Wammel Group Holdings Partnership (“**WGHP**”), and Wammel Group, LLC (the “**Wammel Group**,” together with Wammel and WGHP, the “**Wammel Defendants**”) created a virtual spider’s web of interlocking entities that they utilized in connection with the investment scheme out of which this case arises.

6. One entity—BUCF—offered and sold securities to investors. Other entities—Bryant United Holdings, Inc. dba Bryant United, dba Bryant Financial, dba Bryant United Realtors (“**BUH**”), WGHP, and the Wammel Group—acted as conduits through which investor money flowed. Each of these entities was owned or controlled by Bryant and/or Wammel who worked in concert to defraud investors.

7. Bryant and Wammel have a long history of working together dating back to 2007—first through Bryant’s mortgage company, then creating separate investment schemes that

depended on and related to one another. Bryant and Wammel worked closely, using their entities interchangeably.

8. As reflected in the documents and bank records obtained and reviewed, (1) investors would transfer money to BUCF, (2) BUCF would transfer money to the Wammel Group, (3) the Wammel Group would commingle such monies with the Wammel Group investor funds, and (4) the Wammel Group would eventually transfer funds back to BUCF.

9. The Wammel Defendants used the majority of the \$16.2 million of BUCF investor capital received, commingled with funds raised from the Wammel Defendants' own investors, to fund speculative options and securities trading.

10. Over the days subsequent to my appointment, I took control of and secured Receivership Property and began reviewing financials and other documents relating to the Defendants' business operations.

11. Attached in support of these statements as Exhibits A-1 through A-40 are true and correct copies of the following records, which have informed my opinions herein:

1. February 20, 2008 E-mail from A. Wammel to T. Bryant clarifying position as COO of Bryant Financial and attaching business card
2. February 21, 2008 E-mail from T. Bryant to A. Wammel confirming position as COO
3. November 10, 2011 E-mail from A. Wammel with signature block of Chief Investment Officer
4. Employment Verification to North Star Property Management confirming T. Bryant's salary with A. Wammel's signature as CFO of BUH and BUCF

5. July 15, 2011 E-mail from T. Bryant to investor copying A. Wammel discussing mortgage investment
6. October 26, 2011 E-mail from T. Bryant to A. Wammel
7. September 7, 2010 E-mail from T. Bryant to A. Wammel re investment options to pose to investors
8. February 1, 2011 E-mail from A. Wammel to T. Bryant
9. February 1, 2011 E-mail from T. Bryant to A. Wammel regarding specific investors
10. June 24, 2011 E-mail from T. Bryant to A. Wammel regarding investment contract terms for his review
11. General Partnership Agreement of Wammel Group Holdings Partnership
12. Activity Statements related to the partnership created by the Receivership Defendants and Wammel Defendants from June 2010 through March 2014
13. March 31, 2014 E-mail from A. Wammel to T. Bryant, attaching March 2014 Activity Statement
14. Plaintiff's First Set of Interrogatories to Relief Defendants Arthur F. Wammel and Wammel Group, LLC
15. Plaintiff's First Document Request to Relief Defendants Arthur F. Wammel and Wammel Group, LLC
16. Relief Defendants Arthur F. Wammel and Wammel Group, LLC's Response to Plaintiff's First Set of Interrogatories

17. Relief Defendants Arthur F. Wammel and Wammel Group, LLC's Response to Plaintiff's First Document Request
18. July 25, 2011 E-mail from T. Bryant to A. Wammel providing him with the new BUCF entity and bank information
19. August 15, 2013 E-mail from T. Bryant to A. Wammel creating Wammel Group monthly statements
20. February 14, 2013 E-mail from A. Wammel to T. Bryant
21. February 14, 2013 E-mail from A. Wammel as CFO to Keller Williams Realty regarding T. Bryant
22. December 1, 2016 E-mail from A. Wammel to T. Bryant
23. October 10, 2011 and October 25, 2011 E-mail and attachments from T. Bryant to investors
24. OptionsXPress Account Statement for the Wammel Group dated December 2016
25. OptionsXPress Account Statement for the Wammel Group dated April 30, 2017
26. OptionsXPress Account Statement for the Wammel Group dated May 31, 2017
27. OptionsXPress Account Statement for the Wammel Group dated June 30, 2017
28. BUH National Mortgage Licensing System Details (listing Bryan Financial and BUCF as "Other Trade Names" for BUH)

29. August 18, 2010 E-mail from A. Wammel to T. Bryant attaching WGHP Partnership Agreement
30. June 16, 2017 E-mail from Receiver's Counsel K. Clark to the Wammel Defendants' Counsel T. Galloway (attaching Preliminary Injunction)
31. February 15, 2011 E-mail from A. Wammel to T. Bryant regarding the structure and payouts of investments
32. February 14, 2013 E-mail from A. Wammel to T. Bryant discussing creating pay stub
33. March 23, 2015 E-mail from T. Bryant to A. Wammel requesting fake paystubs
34. July 23, 2013 E-mail from T. Bryant to A. Wammel attaching doctored earnings statement for BUCF
35. August 23, 2013 E-mail from T. Bryant to A. Wammel sending Wammel the BUCF investor contract
36. OptionsXPress Account Statement for the Wammel Group dated January 31, 2017
37. OptionsXPress Account Statement for the Wammel Group dated February 28, 2017
38. OptionsXPress Account Statement for the Wammel Group dated March 31, 2017
39. Property Detail Report for the Wammel Home

40. Bank Statement of Wammel Group reflecting purchase of home for \$339,357.94

12. Except as otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge and my involvement as Receiver in the above-captioned case.

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

Executed on July ____, 2017 at Dallas, Texas.

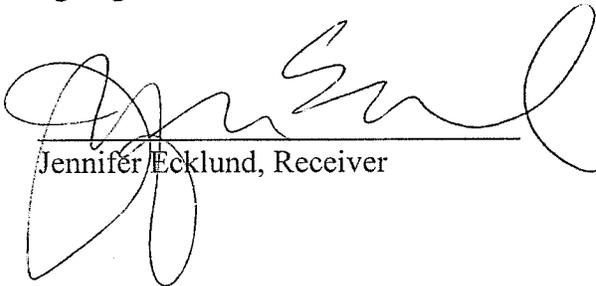
Jennifer Ecklund, Receiver

40. Bank Statement of Wammel Group reflecting purchase of home for \$339,357.94

12. Except as otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge and my involvement as Receiver in the above-captioned case.

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

Executed on July 18, 2017 at Dallas, Texas.



Jennifer Ecklund, Receiver

against me.

2. I am an accountant hired to assist Jennifer Ecklund, the Court-appointed Receiver (the “**Receiver**”) for Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (collectively, the “**Defendants**”) receivership estates (together, the “**Receivership Estate**” or the “**Receivership**”) in this case.

3. I submit this Declaration in support of the *Ex Parte Emergency Motion to Expand the Receivership and Asset Freeze Against the Wammel Defendants, for Temporary Restraining Order, and for Preliminary Injunction and Brief in Support*.

4. As part of my work, my team and I have found that investor funds were, in most instances, deposited into the accounts of Thurman P. Bryant, III and Bryant United Capital Funding, Inc. (“**BUCF**”) (collectively, Bryant and BUCF, the “**Receivership Defendants**”) and then dispersed as directed by Bryant.

5. The Activity Statements from June 2010 through March 2014 (the “**Activity Statements**”) of WGHP or BUH on a monthly basis correspond to certain transactions identified in the bank records the Receiver obtained and that my team and I have analyzed for BUCF.

6. As reflected in the documents and bank records obtained and reviewed, (1) investors would transfer money to BUCF, (2) BUCF would transfer money to the Wammel Group, (3) the Wammel Group would commingle such monies with the Wammel Group investor funds, and (4) the Wammel Group would transfer funds purported to be investor earnings back to BUCF.

7. The Wammel Defendants used a portion of the \$16.2 million of BUCF investor capital received, commingled with funds raised from the Wammel Defendants’ own investors, to

fund options and securities trading.

8. Since at least 2011, the Wammel Defendants received BUCF investor funds and commingled them with money raised from the Wammel Group's, non-BUCF investors in order to (a) make distributions to BUCF; (b) make distributions to the Wammel Group's investors; and (c) fund high-risk investment schemes, including options trading by Wammel.

9. To date, BUCF has transferred \$16.2 million in BUCF investor monies to the Wammel Group, who has paid \$15.8 million back to BUCF in purported earnings. This \$15.8 million is comprised of funds received from BUCF, funds raised from the Wammel Group's non-BUCF investors, its limited trading profits, and other sources of funds commingled by the Wammel Group.

10. From July 2011 through April 2017, BUCF transferred \$16,229,944 from BUCF to the Wammel Group.¹ The returns or earnings expected to be transferred back to BUCF from the Wammel Group for the benefit of investors based upon documentation and representations provided to BUCF investors would be an additional \$11,825,997 (*i.e.* 30% return on investment). When combined with the initial investment of \$16.2 million the total amount of funds that should have been returned equals approximately \$28 million. However, the Wammel Group transferred only \$15,887,588 back to BUCF (of the \$28 million expected) through April 2017, accounting for some purported earnings and principal, but not fully accounting for the amount of original principal invested in the Wammel Group. **Thus, the Wammel Group should hold \$12,168,353 in principal from BUCF investor funds.**

11. The Wammel Group has dissipated assets from December 2016 to June 2017 of

¹ This accounts for over 70% of the total funds obtained from BUCF investors.

over \$7 million.

12. Wammel transferred over \$5.5 million of commingled BUCF investor funds and Wammel Group investor funds from 2011 to 2017 to himself, individually.

13. Over the days subsequent to my engagement, I obtained from the Receiver documents, financials, and bank records of the Defendants and other documents relating to the Defendants' business operations.

14. Attached in support of these statements as Exhibits B-1 through B-4 are true and correct copies of the following summaries, which have informed my opinions herein:

1. Veritas Comparison of Bryant United Holding, Inc. Activity Statements and Transfers Between BUCF and the Wammel Group
2. Veritas Summary of Investor Funds and Returns Transferred Between BUCF and the Wammel Group
3. Veritas Summary of Wammel OptionsXpress Account 0502-2959
4. Veritas Summary of Withdrawals from Wammel Group, LLC

15. Except as otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge and my involvement as a Retained Professional in the above-captioned case.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on July 18, 2017 at Dallas, Texas.


Brandi Kleinman

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

THURMAN P. BRYANT, III, and
BRYANT UNITED CAPITAL FUNDING, INC.

Defendants,

ARTHUR F. WAMMEL,
WAMMEL GROUP, LLC
THURMAN P. BRYANT, JR.,
CARLOS GOODSPEED a/k/a SEAN PHILLIPS
d/b/a TOP AGENT ENTERTAINMENT d/b/a
MR. TOP AGENT ENTERTAINMENT,

Relief Defendants.

Civil Action No.: 4:17cv336

FILED UNDER SEAL

***EX PARTE* ORDER GRANTING RECEIVER'S *EX PARTE* EMERGENCY MOTION TO
EXPAND THE RECEIVERSHIP AND ASSET FREEZE AGAINST THE
WAMMEL DEFENDANTS, FOR TEMPORARY RESTRAINING ORDER,
AND FOR PRELIMINARY INJUNCTION**

This matter came before the Court this 19th day of July, 2017, on motion of Jennifer Ecklund, the Court-appointed Receiver (the "**Receiver**") for issuance of an order granting *Ex Parte Motion to Expand the Receivership and Asset Freeze Against the Wammel Defendants, for Temporary Restraining Order, and for Preliminary Injunction and Brief in Support* (the "**Motion**") relief [Dkt. No. ____]:

The Receiver seeks orders: (1) amending and expanding the Order Appointing Receiver [Dkt. No. 17] to include Arthur F. Wammel ("**Wammel**"), Wammel Group Holdings Partnership ("**WGHP**"), and Wammel Group, LLC (the "**Wammel Group**" together with Wammel and WGHP, the "**Wammel Defendants**"); (2) freezing the assets of the Wammel Defendants; and

(3) temporarily restraining and preliminarily enjoining the Wammel Defendants from further violating the Receivership Order and pursuant thereto. Having considered the Receiver's Motion, supporting memorandum, declarations, and exhibits thereto, and the argument of counsel, the Court finds:

1. This Court has jurisdiction over the subject matter of this action and over the Defendants and Relief Defendants, and the Receiver is a proper party to bring this action seeking the relief sought in the Motion.

2. There is good cause to believe that the Wammel Defendants (1) participated in the fraud with the Receivership Defendants, and (2) are affiliated with the Receivership Defendants.

3. There is good cause to believe that without the temporary relief requested the Receivership Estate will be irreparably harmed by the continuing evaporation of assets, destruction of evidence, and further violation of the Receivership Order.

4. There is good cause to believe that requiring notice to the Wammel Defendants of the Receiver's motion for this Order would result in immediate and irreparable injury, loss, or damage to the investors.

5. This proceeding is one in which the Receiver seeks a preliminary injunction.

6. The timing restrictions of Fed. R. Civ. P. 26(d) and (f), 30(a)(2)(C) and 34 do not apply to this proceeding in light of the Receiver's requested relief and its demonstration of good cause.

IT IS THEREFORE ORDERED:

7. The Motion is GRANTED.

8. The receivership and asset freeze are expanded to include the Wammel Defendants.

9. The Wammel Defendants are further temporarily restrained and preliminarily enjoined from further violating the Receivership Order and pursuant thereto.

10. This Court's Order Appointing Receiver dated May 15, 2017 is amended and expanded in all respects to include the Wammel Defendants, as set forth in the Amended Order Appointing Receiver [Dkt. No. ____], as if the Wammel Defendants were included among the original entities over which the Receiver was appointed. The Amended Order Appointing Receiver shall apply with equal force and effect to the Wammel Defendants as it applies to the original Defendants. The terms, orders, and provisions of the Amended Order Appointing Receiver are incorporated herein by reference as to the Wammel Defendants.

11. Unless extended by agreement of the parties, the portion of this order that constitutes a temporary restraining order shall expire at **5:00 p.m. on August 2, 2017**, or such later date as may be ordered by the Court. All other provisions of the orders issued herein, including the asset freeze, shall remain in full force and effect until specifically modified by further order of this Court.

12. The Wammel Defendants shall appear before this Court at the United States District Courthouse, 101 E. Pecan Street, Sherman, Texas 75090 at **9:00 a.m. on August 2, 2017**, or as soon thereafter as they can be heard, and in any event prior to the expiration of the orders issued herein, to show cause, if any, why this Court should not enter a preliminary injunction extending the relief granted in this Order until a final adjudication on the merits may be had. The Wammel Defendants shall serve any papers in opposition to such relief by hand delivery or overnight courier service to the Receiver's Counsel, Timothy Hudson, no later than five full business days before such hearing. The Receiver may serve and file a reply no later than 24 hours before the hearing, and shall serve such reply brief, if any, on the Wammel Defendants

or their attorneys by facsimile transmission, courier service, email, or such other means as the Receiver may reasonably determine will give them or their attorneys prompt delivery of these papers. Pursuant to Rule 43(e) of the Federal Rules of Civil Procedure, the Court, in determining whether the Wammel Defendants should be preliminarily enjoined, may consider affidavits, declarations and exhibits.

IT IS SO ORDERED.

Signed at _____ p.m. on this _____ day of _____, 2017.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED

THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of, or under the control of, the following Defendants:

- Thurman P. Bryant, III;
- Bryant United Capital Funding, Inc.;
- Arthur F. Wammel;
- Wammel Group Holdings Partnership; and
- Wammel Group, LLC;

(collectively, “Receivership Defendants”).

2. Until further Order of this Court, **Jennifer R. Ecklund, Thompson & Knight LLP, Dallas, Texas**, is hereby appointed to serve without bond as receiver (the “Receiver”) for the estate of the Receivership Defendants.

I. Asset Freeze

3. Except as otherwise specified herein, all Receivership Assets are frozen until further order of this Court. Accordingly, all persons and entities with direct or indirect control over any Receivership Assets, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets. This freeze shall include, but not be limited to, Receivership Assets that are on deposit with financial institutions such as banks, brokerage firms and mutual funds.

II. General Powers and Duties of Receiver

4. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers and general and limited partners of the entity

Receivership Defendants under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed. R. Civ. P. 66.

5. The trustees, directors, officers, managers, employees, investment advisors, accountants, attorneys and other agents of the Receivership Defendants are hereby dismissed and the powers of any general partners, directors and/or managers are hereby suspended. Such persons and entities shall have no authority with respect to the Receivership Defendants' operations or assets, except to the extent as may hereafter be expressly granted by the Receiver. The Receiver shall assume and control the operation of the Receivership Defendants and shall pursue and preserve all of their claims.

6. No person holding or claiming any position of any sort with the Receivership Defendants shall possess any authority to act by or on behalf of the Receivership Defendants.

7. Subject to the specific provisions in Sections III through XIV, below, the Receiver shall have the following general powers and duties:

- A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Defendants, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Defendant owns, possesses, has a beneficial interest in, or controls directly or indirectly ("Receivership Property" or, collectively, the "Receivership Estate");
- B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Defendants; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;
- C. To manage, control, operate and maintain the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court;

- D. To use Receivership Property for the benefit of the Receivership Estates, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, trustees and agents of the Receivership Defendants;
- F. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;
- G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- H. To issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure;
- I. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver;
- J. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estates; and,
- K. To take such other action as may be approved by this Court.

III. Access to Information

8. The individual Receivership Defendant and the past and/or present officers, directors, agents, managers, general and limited partners, trustees, attorneys, accountants and employees of the entity Receivership Defendant, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Defendants and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

9. Within ten (10) days of the entry of this Order, the Receivership Defendants shall file with the Court and serve upon the Receiver and the SEC a sworn statement, listing: (a) the identity, location and estimated value of all Receivership Property; (b) all employees (and job titles thereof), other personnel, attorneys, accountants and any other agents or contractors of the Receivership Defendants; and, (c) the names, addresses and amounts of claims of all known creditors of the Receivership Defendants.

10. Within twenty (20) days of the entry of this Order, the Receivership Defendants shall file with the Court and serve upon the Receiver and the SEC a sworn statement and accounting, with complete documentation, covering the period from January 1, 2010 to the present:

- A. Of all Receivership Property, wherever located, held by or in the name of the Receivership Defendants, or in which any of them, directly or indirectly, has or had any beneficial interest, or over which any of them maintained or maintains and/or exercised or exercises control, including, but not limited to: (a) all securities, investments, funds, real estate, automobiles, jewelry and other assets, stating the location of each; and (b) any and all accounts, including all funds held in such accounts, with any bank, brokerage or other financial institution held by, in the name of, or for the benefit of any of them, directly or indirectly, or over which any of them maintained or maintains and/or exercised or exercises any direct or indirect control, or in which any of them had or has a direct or indirect beneficial interest, including the account statements from each bank, brokerage or other financial institution;
- B. Identifying every account at every bank, brokerage or other financial institution: (a) over which Receivership Defendants have signatory authority; and (b) opened by, in the name of, or for the benefit of, or used by, the Receivership Defendants;
- C. Identifying all credit, bank, charge, debit or other deferred payment cards issued to or used by each Receivership Defendant, including but not limited to the issuing institution, the card or account number(s), all persons or entities to which a card was issued and/or with authority to use a card, the balance of each account and/or card as of the most recent billing statement, and all statements for the last twelve months;
- D. Of all assets received by any of them from any person or entity, including the value, location, and disposition of any assets so received;

- E. Of all funds received by the Receivership Defendants, and each of them, in any way related, directly or indirectly, to the conduct alleged in the SEC's Complaint. The submission must clearly identify, among other things, all investors, the securities they purchased, the date and amount of their investments, and the current location of such funds;
- F. Of all expenditures exceeding \$1,000 made by any of them, including those made on their behalf by any person or entity; and
- G. Of all transfers of assets made by any of them.

11. Within twenty (20) days of the entry of this Order, the Receivership Defendants shall provide to the Receiver and the SEC copies of the Receivership Defendants' federal income tax returns for taxable years 2010-2016 with all relevant and necessary underlying documentation.

12. The Receivership Defendants' past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners, and other appropriate persons or entities shall answer under oath to the Receiver all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Defendants, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Defendants. In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entities, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.

13. The Receivership Defendants are required to assist the Receiver in fulfilling his duties and obligations. As such, they must respond promptly and truthfully to all requests for information and documents from the Receiver.

IV. Access to Books, Records and Accounts

14. The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records and all other documents or instruments relating to the Receivership Defendants. All persons and entities having control, custody or

possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

15. The Receivership Defendants, as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order by personal service, facsimile transmission or otherwise, having possession of the property, business, books, records, accounts or assets of the Receivership Defendants are hereby directed to deliver the same to the Receiver, his agents and/or employees.

16. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, and of the Receivership Defendants that receive actual notice of this Order by personal service, facsimile transmission or otherwise shall:

- A. Not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Defendants except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;
- C. Within five (5) business days of receipt of that notice, file with the Court and serve on the Receiver and counsel for the SEC a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and,
- D. Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

V. Access to Real and Personal Property

17. The Receiver is authorized to take immediate possession of all personal property of the Receivership Defendants, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of

indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies and equipment.

18. The Receiver is authorized to take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or, (c) destroying, concealing or erasing anything on such premises.

19. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above. The Receiver shall have exclusive control of the keys. The Receivership Defendants, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys in their possession during the term of the receivership.

20. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Defendants, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

21. Upon the request of the Receiver, the United States Marshal Service, in any judicial district, is hereby ordered to assist the Receiver in carrying out his duties to take possession, custody and control of, or identify the location of, any assets, records or other materials belonging to the Receivership Estate.

VI. Notice to Third Parties

22. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers and general and limited partners of the Receivership Defendants, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

23. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to any Receivership Defendants shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Defendants had received such payment.

24. In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estates. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the SEC.

25. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Defendants (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Defendants. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Defendants shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of the Receivership Defendants, and/or any mail

appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Defendants. The Receivership Defendants shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository or courier service.

26. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to the Receivership Defendants shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

VII. Injunction Against Interference with Receiver

27. The Receivership Defendants and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to, concealing, destroying or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property, enforcing judgments, assessments or claims against

any Receivership Property or any Receivership Defendants, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any Receivership Defendant or which otherwise affects any Receivership Property; or,

D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.

28. The Receivership Defendants shall cooperate with and assist the Receiver in the performance of his duties.

29. The Receiver shall promptly notify the Court and SEC counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

VIII. Stay of Litigation

30. As set forth in detail below, the following proceedings, excluding the instant proceeding and all police or regulatory actions and actions of the SEC related to the above-captioned enforcement action, are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) the Receivership Defendants, including subsidiaries and partnerships; or, (d) any of the Receivership Defendants' past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

31. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

32. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the

Receivership Defendants against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

IX. Managing Assets

33. For each of the Receivership Estates, the Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Property (the “Receivership Funds”).

34. The Receiver’s deposit account shall be entitled “Receiver’s Account, Estate of Thurman P. Bryant, III and Bryant United Capital Funding, Inc.” together with the name of the action.

35. The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.

36. Subject to Paragraph 37, immediately below, the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.

37. Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estates.

38. The Receiver is authorized to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Estates, including making legally required payments to creditors, employees, and agents of the Receivership Estates and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

39. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund," within the meaning of Section 468B of the Internal Revenue Code and of the regulations.

X. Investigate and Prosecute Claims

40. Subject to the requirement, in Section VIII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in his discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or conserve Receivership Property.

41. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Defendant were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to Counsel for the SEC before commencing investigations and/or actions.

42. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by the Receivership Defendants.

43. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, his Retained Personnel (as that term is defined below), and the Receivership Estate.

XI. Bankruptcy Filing

44. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for a Receivership Defendant. If a Receivership Defendant is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estates as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 4 above, the Receiver is vested with management authority for the Receivership Defendant and may therefore file and manage a Chapter 11 petition.

45. The provisions of Section VIII above bar any person or entity, other than the Receiver, from placing the Receivership Defendant in bankruptcy proceedings.

XII. Liability of Receiver

46. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with his fiduciary obligations in this matter.

47. The Receiver and his agents, acting within scope of such agency (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel.

48. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

49. In the event the Receiver decides to resign, the Receiver shall first give written notice to the SEC's counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

XIII. Recommendations and Reports

50. The Receiver is authorized, empowered and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property (the "Liquidation Plan").

51. Within thirty (30) days of the entry date of this Order, the Receiver shall file a status report with the Court. The status report will include a summary of receivership activities to date. It will also include a proposed plan for administering the receivership going forward, as well as a proposed deadline by which the Receiver will submit the Liquidation Plan. The Receiver's fees—including all fees and costs for the Receiver and others retained to assist in the administration and liquidation of the Receivership estate—are capped at \$75,000 during the initial 30-day period. Further fee limitations, including capping fees at sixty (60) or ninety (90) days after the entry date of this Order, if any, will be set by the Court after the Receiver submits the first status report.

52. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the "Quarterly Status Report"), reflecting (to the best of the Receiver's knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of

liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates.

53. The Quarterly Status Report shall contain the following:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
- F. A list of all known creditors with their addresses and the amounts of their claims;
- G. The status of Creditor Claims Proceedings, after such proceedings have been commenced; and,
- H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

54. On the request of the SEC, the Receiver shall provide the SEC with any documentation that the SEC deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the SEC's mission.

XIV. Fees, Expenses and Accountings

55. Subject to Paragraphs 56-62 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary

course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state or local taxes.

56. Subject to Paragraph 57 immediately below, the Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

57. Subject to the limitations in Paragraph 56 above, the Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate as described in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

58. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estates (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by SEC staff.

59. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

60. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts

held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

61. Each Quarterly Fee Application shall:
 - A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and,
 - B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

62. At the close of the Receivership, the Receiver shall submit a Final Accounting, in a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2017.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE