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Attorneys for Defendant

BRIAN A. OLIVER

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

**AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,
LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK; BRIAN A.
OLIVER; and N. SCOTT GILLIS,**

Defendants.

Case No. 3:16-cv-00438-PK

**SUPPLEMENTAL DECLARATION OF
LARISA A. MEISENHEIMER IN SUPPORT
OF DEFENDANTS BRIAN A. OLIVER
AND N. SCOTT GILLIS' MOTION FOR
RELIEF FROM RECEIVERSHIP ORDER,
TO THE EXTENT NECESSARY, TO
PERMIT PAYMENT OF DEFENSE COSTS**

Complaint Filed: March 10, 2016



I, Larisa A. Meisenheimer, declare as follows:

1. I am an attorney licensed to practice law in the State of California and I am admitted *pro hac vice* to practice before this Court in the above-captioned matter. I have personal knowledge of the facts set forth in this declaration, and if called and sworn as a witness, I could and would testify to the following facts.

2. I am a partner with the law firm of Shartsis Frieese LLP (“Shartsis Frieese”) and counsel for defendant Brian A. Oliver in the above-captioned matter. From the time I starting representing Mr. Oliver in early 2016, I have personally reviewed each of our law firms bills prior to its submission to Catlin.

3. On June 8, 2017, my law firm sent an invoice for services rendered through May 31, 2017, to Catlin. In response, on June 12, 2017, I was copied on an email from counsel for Catlin, Emily Hart, stating that “The Catlin policy has been exhausted. Going forward, please send invoices, including the attached invoice sent on Thursday, to [counsel for Forge] who I’ve cc’d on this email.” Attached hereto as Exhibit A is a true and accurate copy of the June 12, 2017, email from counsel for Catlin.

4. On June 16, 2017, I contacted counsel for the Receiver, Ivan Knauer, to inform him that the Catlin Policy had been exhausted and to begin the meet and confer process concerning a motion for relief from the Receivership Order, to the extent necessary, to permit payment of defense costs from the Forge Policy.

5. On or about July 10, 2017, Shartsis Frieese received checks from Catlin for the payment of bills that Shartsis Frieese had submitted to Catlin for payment on or about April 18, 2017, and May 11, 2017.

6. The Receiver has suggested that Catlin engaged in improper behavior because it physically mailed checks for the payment of defense costs after the date that I notified the Receiver's counsel that the Catlin Policy was exhausted. However, as noted above, the payment that my law firm received from Catlin in early July related to bills that were submitted well before the date Catlin announced that the Catlin Policy was exhausted.

7. Shartsis Friese has not yet received any payment for the bill it submitted on June 12, 2017, or for any bills submitted on or after the date that Catlin notified us that the Catlin Policy was exhausted.

8. At the time of the hearing on this Motion, Shartsis Friese will have six months of unpaid bills for legal services rendered. The delay in payment, and the uncertainty concerning future insurance coverage, is causing Mr. Oliver prejudice, as his counsel has had to delay important work and to delay making time-sensitive strategic decisions.

9. Attached hereto as Exhibit B is a true and correct copy of an email from Eryk Gettell, counsel for Forge, sent to counsel for the Individual Defendants on June 13, 2017.

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

Executed on September 28, 2017 in San Francisco, California.



LARISA A. MEISENHEIMER

EXHIBIT A

Meisenheimer, Larisa A.

From: Hart, Emily <EHart@wileyrein.com>
Sent: Monday, June 12, 2017 12:02 PM
To: Vibat, Vilma C.
Cc: Cronic, Jason; Gettell, Eryk; Meisenheimer, Larisa A.
Subject: FW: 10060-1 (May 2017 Invoice)
Attachments: 5383880.pdf

Hi Vilma,

The Catlin policy has been exhausted. Going forward, please send invoices, including the attached invoice sent on Thursday, to Eryk Gettell, who I've cc'd on this email.

Thanks,

Emily

From: Vibat, Vilma C. [<mailto:VVibat@sflaw.com>]
Sent: Thursday, June 08, 2017 5:52 PM
To: Hart, Emily <EHart@wileyrein.com>; Cronic, Jason <JCronic@wileyrein.com>
Subject: 10060-1 (May 2017 Invoice)

Attached is an invoice copy for services rendered through May 31, 2017. Please contact us if you have any questions.

Thanks,
Vilma Vibat
Shartsis Friese LLP
Accounting Department
One Maritime Plaza, 18th Floor
San Francisco, CA 94111
Phone: (415)773-7316
Email: yvibat@sflaw.com

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EXHIBIT B

From: Gettell, Eryk [<mailto:Eryk.Gettell@sedgwicklaw.com>]

Sent: Tuesday, June 13, 2017 9:27 AM

To: 'Scott Whipple'; 'Sprague, Doug'; Raissi, Jahan; 'arose@rose-law.com'; 'pete.white@srz.com'; 'mbm@bhlaw.com'; Daniels, Brad

Cc: Elsbree, Eugene; Forrester, Kimberly

Subject: Aequitas Holdings, LLC/SEC Action

Counsel –

We represent Forge Underwriting, which issued Excess Claims Made Private Equity Liability Insurance Policy No. B0146ERUSA1400543 to Aequitas Holdings, LLC. We understand from Catlin's (the primary insurer) counsel that the primary policy has been exhausted. Before Forge can begin reimbursing defense costs under the Forge excess policy, we believe it is necessary that your clients first obtain an order from the court in the SEC Action for relief from the Receivership Order to permit the payment of defense costs under the Forge excess policy. Attached is a copy of the Order Granting Relief from the Receivership Order to Permit Limited Payment of Defense Costs that was previously issued in the SEC Action. However, the Order only pertains to Catlin, not Forge or the second level excess carrier, Starr.

Accordingly, Forge respectfully requests that your clients coordinate with counsel for the Receivership Defendants and the SEC's counsel to obtain a similar order from the court permitting the payment of defense costs under the Forge excess policy.

Please feel free to contact me with any questions.

Kind regards,
Eryk

Eryk R. Gettell

eryk.gettell@sedgwicklaw.com

415.627.1481 direct

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SEDGWICK INSURANCE LAW BLOG

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MANAGEMENT, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,

No. 3:16-cv-00438-PK

STIPULATION AND ORDER GRANTING
RELIEF FROM RECEIVERSHIP ORDER
TO PERMIT LIMITED PAYMENT OF
DEFENSE COSTS

Page 1 - STIPULATION AND ORDER GRANTING RELIEF
FROM RECEIVERSHIP ORDER TO PERMIT LIMITED
PAYMENT OF DEFENSE COSTS

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LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK, BRIAN A. OLIVER;
and N. SCOTT GILLIS,

Defendants.

Individual Defendants Robert J. Jesenik, Brian A. Oliver, and N. Scott Gillis (the "Executives") and Receivership Defendants Aequitas Management, LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance, Inc., Aequitas Capital Management, Inc., and Aequitas Investment Management, LLC (collectively, "Defendants" and, together with Executives, "the Parties"), by and through their respective undersigned counsel, hereby respectfully submit the following Stipulation and (Proposed) Order Granting Relief from Receivership Order to Permit Limited Payment of Defense Costs. Plaintiff Securities and Exchange Commission takes no position regarding this stipulation.

STIPULATION

WHEREAS, an investigation was instituted against the Company and affiliated entities by the United States Securities and Exchange Commission (the "Investigation") and the subsequently filed civil action, *SEC v. Aequitas Management, LLC, et al.*, Case No. 3:16-cv-00438-PK (D. Or.) (the "Litigation"), which names the Executives as parties in the Litigation (Dkt. No. 1);

WHEREAS, on April 14, 2016, the Court entered an Order in the Litigation (the "Receivership Order") (Dkt. 156) that, among other things, appointed Ronald Greenspan (the "Receiver") as the receiver for the Company and froze the assets of the Company and certain of its subsidiaries and affiliates (collectively the "Receivership Entities");

WHEREAS, on May 12, 2016, the Executives filed a Motion for Relief from Receivership Order to allow Catlin Specialty Insurance Company ("Insurer") to advance certain

past and future defense costs to or on behalf of the Executives and or other insured persons (Dkt. No. 176);

WHEREAS, the Parties subsequently met and conferred in an attempt to informally resolve the issues raised in the Executives' Motion;

WHEREAS, as a result of the Parties' meet and confer efforts, they stipulate as follows and request that the Court approve this stipulation:

1. Insurer issued Private Equity Management Liability Insurance Policy No. MFP-686757-0714 (the "Policy") to Aequitas Holdings, LLC (the "Company"), for the Policy Period of July 1, 2014 to July 1, 2015, subsequently extended to November 1, 2015, with limits of liability in the amount of \$5,000,000, as set forth in the Policy;
2. The Policy provides coverage for "Claim(s)," including certain Claims made by governmental entities against Insured Persons under the Policy's Insuring Agreement A, as set forth in the Policy;
3. The Investigation and Litigation constitute a "Claim" as that term is defined in the Policy;
4. The Insurer has received notice and requests for coverage under the Policy relating to the Investigation and Litigation from, *inter alia*, the Executives, who qualify as "Insured Persons" as that term is defined in the Policy;
5. The Executives have incurred and continue to incur "Loss", as that term is defined in the Policy in the form of "Defense Costs" in connection with the Investigation and the Litigation;
6. Subject to the mutual reservations of rights and pursuant to the terms and conditions of the Policy, the Insurer is willing to advance to or for the benefit of the Executives "Defense Costs" they incurred for the Investigation, and that they have and will incur for the Litigation;

7. The Company also purchased two policies of management liability insurance, that purport to follow form to the terms of the Policy, with combined limits of liability of \$10,000,000, to apply in excess of the Policy, as set forth in those two policies;

8. The Company asserts that it and many, if not all, of the Receivership Entities contend that they qualify as Insureds under the Policy and may have rights to the recovery of Loss under the Policy for existing and or future Claims brought against them;

9. The Executives assert that they may suffer substantial and irreparable harm, as they will not be able to fully and meaningfully defend the Litigation if they are prevented from exercising their rights under the Policy to recover Defense Costs; and

10. The Receiver does not oppose the relief from the stay sought by the Executives, albeit subject to appropriate conditions, which conditions are set forth in the (Proposed) Order.

IT IS SO STIPULATED this 20th day of May, 2016.

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FROM RECEIVERSHIP ORDER TO PERMIT LIMITED
PAYMENT OF DEFENSE COSTS

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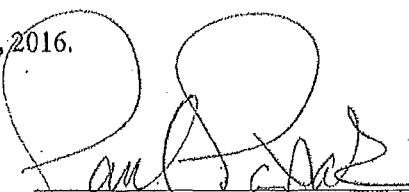
Attorneys for Defendant N. Scott Gillis

ORDER

Good cause appearing, it is hereby ORDERED that the Receivership Order is lifted to the extent applicable, so that the Insurer shall be and is hereby authorized to make payments under the Policy to or for the benefit of the Executives for covered Defense Costs incurred in connection with the Investigation and Litigation. The Executives shall submit to the Receiver on a quarterly basis, commencing within 90 days of the entry of this Order, a report reflecting the aggregate amount of Defense Costs paid by the Insurer on behalf of the Executives during the prior quarter.

IT IS SO ORDERED.

Dated this 23rd day of May, 2016.


United States Magistrate Judge Paul Papak