

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

Chapter 7

CLSF III IV, INC.

Case No. 12-30081-BKC-EPK (Lead Case)
(JOINTLY ADMINISTERED)

Debtor. /

**MQIC'S MOTION (I) FOR DERIVATIVE STANDING TO FILE MOTION FOR
SUBSTANTIVE CONSOLIDATION, AND (II) FOR SUBSTANTIVE CONSOLIDATION
OF THE JOINTLY ADMINISTERED PONZI ENTITIES' BANKRUPTCY ESTATES,
RELATED FLORIDA TRUSTS, AND DEBORAH C. PECK, P.A.
(HEARING REQUESTED ON OR BEFORE MARCH 4, 2013 AT 10:30 A.M.)**

The Court has scheduled an omnibus hearing on March 4, 2013 to consider oral arguments on issues related to the permanent trustee elections conducted during the Related Debtors' § 341 Meetings of Creditors [ECF #195]. Should the Court grant the relief requested herein, many of the issues to be considered at the election hearing will be moot. Accordingly, MQIC submits that for the sake of judicial and administrative convenience and efficiency, the Court should consider this Motion on or before March 4, 2013.

Creditor, Maatschap QI Collectief¹ (“MQIC”), a Belgium partnership, on behalf of itself and its investor-members, by and through undersigned counsel, and pursuant to Sections 105, 302(b), 541, and 542 of Title 11 of the United States Code (the “Bankruptcy Code”), files this motion (the “Motion”), seeking the entry of an order substantively consolidating the Related Debtors' bankruptcy estates², the Florida Trusts³, the adjudicated Alter Egos,ⁱ and Deborah C.

¹ MQIC is a Belgian partnership formed by and for victims of this Ponzi scheme. Upon joining MQIC, constituent members irrevocably assigned their claims to MQIC's common pool of claims in exchange for a ratable right to share in funds collected or recovered by MQIC. Upon discovery that the policy owned by CLSF VIII, Inc. had matured, two MQIC members who were initially invested in CLSF VIII Fund, Willheimus Th.H Wijnstma and Roger L. De Wolf, have attempted to withdraw from MQIC. While MQIC maintains that all assignments were and are irrevocable, MQIC hereby discloses to the Court that two members (of the over 700 total members) have asserted a desire to “resign” and have voiced their opposition to this Motion.

² The Related Debtors, not including the Lead Case are: The Sinder TR Corp. Case No.: 12-35441-EPK; LSF III, Inc. Case No.: 12-35442-EPK; CLSF XIV, Inc. Case No.: 12-35661-EPK; LSF IV, Inc. Case No.: 12-36930-EPK; LSF VI, Inc. Case No.: 12-36931-EPK; BGI 3 Life, Inc. Case No.: 12-36932-EPK; BGI 5 Life, Inc. Case No.: 12-36933-EPK; BGI 6 Life, Inc. Case No.: 12-36935-EPK; Behl, Corporation Case No.: 12-36936-EPK; BGI

Peck, P.A. (“DPPA”) (altogether, the “Ponzi Entities”) into a single estate with pooled assets and liabilities and common unsecured creditors. In support of this Motion, MQIC states as follows:

PRELIMINARY STATEMENT

1. MQIC requests that this Court substantively consolidate the estate of the lead case with the Ponzi Entities in recognition of the abundantly clear reality that the Ponzi Entities are, in fact, alter egos of each other, and were run for years as part of a single illegal enterprise. The Ponzi Entities were commonly controlled by Deborah C. Peck (“Peck”) and her coconspirators. The attorney trust account owned and controlled by DPPA was the entry point, through which investor funds were collected, commingled, misappropriated, and often fraudulently conveyed to individuals and entities throughout the world. Peck was the sole managing member, incorporator, and registered agent of the Related Debtors, the trustee of the Trusts that held 100% of the Related Debtors’ stock, and the controlling attorney of DPPA. Through DPPA, Peck comingled the Ponzi Entities’ funds in pooled accounts, paid the various Ponzi Entities’ obligations without regard to proper accounting practices, ran the Ponzi Entities out of the same office with the same employees, operations, and equipment, stored their records together, and, for the most part, did not observe corporate formalities that would delineate separate corporate identities. Further, Peck used DPPA to misappropriate over \$100 million of Investors’ funds, which were

XVII, Corp. Case No.: 12-36939-EPK; BGI XX, Corp. Case No.: 12-36940-EPK; CLSF I, Inc. Case No.: 12-36942-EPK; CLSF VII, Inc. Case No.: 12-36943-EPK; CLSF VIII, Inc. Case No.: 12-36944-EPK; CLSF XV, Inc. Case No.: 12-36945-EPK; CLSF XVI, Inc. Case No.: 12-36946-EPK; CLSF XVII, Inc. Case No.: 12-36947-EPK; CLSF XX, Inc. Case No.: 12-36948-EPK; CLSF XXI, Inc. Case No.: 12-36949-EPK; CLSF XXII, Inc. Case No.: 12-36950-EPK; CLSF XXIII, Inc. Case No.: 12-36951-EPK; CLSF XXV, Inc. Case No.: 12-36952-EPK; CLSF XXIX, Inc. Case No.: 12-36953-EPK; CLSF XXXI, Inc. Case No.: 12-36954-EPK; CLSF XXXV, Inc. Case No.: 12-36955-EPK; CLSF XL, Inc. Case No.: 12-36956-EPK; CLSF XLI, Inc. Case No.: 12-36957-EPK; LSF I, Inc. Case No.: 12-36958-EPK; RPM Life, Inc. Case No.: 12-36959-EPK; Ryan Trust, Corporation Case No.: 12-36960-EPK; The Gluck TR, Corp. Case No.: 12-36961-EPK; The Friedman Trust, Corp Case No.: 12-36962-EPK.

³ The Florida Trusts include those trusts for which Peck serves as trustee and that assigned a life settlement or policy to a Related Debtor or Alter Ego. The Florida Trusts are unidentified at present, and are distinguished from those trusts included in the definition of “Alter Egos” set forth in Footnote 3. MQIC will specifically identify the Florida Trusts after receiving the necessary trust documents either from Peck or the interim trustee.

fraudulently transferred from the Peck Trust Account to, among other recipients, other Ponzi Entities, insiders, and various entities owned or controlled by insiders, and not to purchase or maintain insurance policies.

2. Substantive consolidation is necessary: (i) to avoid the immediate and irreparable harm to all creditors that would result if the estates were separately administered, (ii) to avoid unnecessary legal conflicts among the estates arising from the widespread misuse of untraceable investor funds, and (iii) to efficiently utilize the common assets of the consolidated estates for the benefit of the Ponzi Entities' common creditors. Policies have lapsed because of Peck's mismanagement and more are in danger of lapsing. Further, the creditors of the disparate individual estates are not in a position to maintain policies indefinitely or to revive policies that may have lapsed. To date, MQIC alone has shouldered the entire burden of servicing policies for all creditors, regardless of whether MQIC has a direct interest in the recipient policy's proceeds. The current situation is unsustainable because MQIC's resources are limited, and putting the burden of maintaining policies entirely on MQIC is unfair.

3. Moreover, under the *status quo*, the creditor-investors of the various estates are pitted against each other. For example, the insurance policy offered and sold as the "CLSF VIII Fund" recently matured, and the interim trustee for that estate is now holding \$3 million in proceeds from that policy. After that policy matured, investors who believed that their funds were traceably invested in the CLSF VIII Fund claimed a right to a distribution of 100% of that policy's proceeds. It is undisputed that Peck used untraceable commingled funds to purchase all of the Ponzi Entities' insurance policies and pay their periodic premiums. Peck's own testimony confirms that the CLSF VIII Fund's policy was purchased and maintained with comingled

funds.⁴ A distribution limited to the investors identified in CLSF VIII Fund's documentation would be unjustly preferential, and would be unfair to the investors whose misappropriated funds were used to purchase and maintain the policy.⁵ Were the *status quo* allowed to persist, each of the estates would be obligated to file an adversary action against the CLSF VIII, Inc. estate to preserve their interests.

4. Moreover, if the policies are effectively preserved, then there will be additional maturities and the inter-Investor conflict will become more acute. The investors in isolated estates will organize and demand distributions to the detriment of the majority of investors. One of the chief policies underlying the Bankruptcy Code is equality of distribution. If the Related Debtor Estates remain separate, this fundamental principle of the Code will be frustrated.

5. The Interim Trustee's steadfast refusal to consolidate the intertwined estates prejudices the common creditor body and exposes them to acute risk of loss. While the CLSF VIII Fund's proceeds are sitting in one estate's account, over \$100 million in policies are in

⁴ *In re: CLSF VIII, Inc.*, Case No. 12-36944-BKC-EPK, Section 341 Meeting of Creditors transcript at page 16 (Transcript attached hereto as **Exhibit A**):

Q. Was the insurance policy that is owned by this debtor, was owned by this debtor, prior to its maturity purchased with funds from the commingled -- quote IOTA trust account?

A. Yes.

In re: CLSF VIII, Inc., Case No. 12-36944-BKC-EPK, Section 341 Meeting of Creditors transcript at page 24:

Q. The premium payments that were paid over time, were those paid out of your trust account, as well?

A. They all -- all of the monies that came into my account were used for -- that came out of that account, that's the account it came out of for the premium payments.

Q. And that's your IOTA trust account?

A. Correct.

⁵ In addition, some of the funds within the greater Quality Investments Offering are oversubscribed relative to the investor distribution promised in the various prospectuses. For instance, the CLSF III IV prospectus purported to limit that fund to 12 investors. Upon information and belief, CLSF III IV may have as many as 28 investors, but only one policy from which to pay all of those investors. Accordingly, those investors, including the Petitioning Creditors, would receive diluted distributions relative to investors in non-oversubscribed funds if the relevant in-force policies were to mature. If legitimate maturity bonds were in place to protect those investors, the over-subscription problem would be more contained. Without legitimate maturity bonds to protect investors, the problem of over-subscription exacerbates the unfairness to creditors in maintaining separate estates.

danger of lapsing next month. Only MQIC willingness and ability to pay the over \$700,000 in premium costs prevents widespread lapse. Instead of moving with deliberate speed to consolidate the Ponzi Entities for the creditors' benefit, the Interim Trustee has chosen to let those funds go unused. The offense of this decision is amplified by the Interim Trustee's repeated assertion that MQIC should be held responsible for any resulting lapses. If the Ponzi Entities are consolidated the CLSF VIII Fund proceeds (and other immediately available consolidated estate assets) will be available to maintain and stabilize the policy portfolio, as well as pay other administrative expenses.⁶ Accordingly, to avoid the patent unfairness that flows from ignoring the way that the corporate formalities of the Ponzi Entities were disregarded well before the involuntary petition was prosecuted, the Ponzi Entities must be substantively consolidated.

6. Substantive consolidation will benefit creditors, first and foremost, by avoiding the prohibitive expense and impossible task⁷ of disentangling the Ponzi Entities' assets, liabilities, and affairs. Moreover, in light of Peck's practice of indiscriminately paying the Ponzi Entities' obligations without regard to the source of those funds, substantive consolidation would lead to a more fair and equitable distribution of the consolidated assets to common creditors by eliminating inter-estate claims and artificially separating assets that were always treated as one asset pool by Peck and her coconspirators. Finally, consolidating DPPA with the other Ponzi Entities will allow the Interim Trustee or her successor trustee to claw-back the substantial

⁶ As is argued more fully herein, the interim trustee's motives for ignoring MQIC's demand that she consolidate the Ponzi Entities are all too transparent. If the Ponzi Entities are consolidated, the interim trustee's objections to MQIC's proofs of claim will be gutted; the interim trustee will no longer be able to argue that the investors, including MQIC, are "creditors of creditors," and the contested trustee election will be decided in favor of MQIC's preferred trustee.

⁷ The FIOD concluded that the totality of funds solicited from investors were principally funneled through a small handful of accounts managed by Peck and that separate escrows, premium reserve accounts, or other segregated accounts for the funds of investors in each fund were never established. An apostiled copy of the FIOD Report is attached hereto as **Exhibit B**.

fraudulent transfers that Peck made to insiders and the entities that they own and control. At present, the Interim Trustee has not commenced fraudulent transfer suits against insiders because she cannot do so without the benefits of substantive consolidation. The suspect transfers that are highlighted in the FIOD Report and other documents were transacted through Peck's and DPPA's accounts, and the Related Debtors are powerless to recover those transfers absent consolidation. By refusing to move for substantive consolidation, the Interim Trustee is leaving millions of dollars in potential recoveries unprosecuted. The more time that passes the more opportunity is given to the fraudsters to hide their assets and render them uncollectible. This increasing probability is intolerable and unfair to the Ponzi Entities' common creditors, including MQIC.

7. In addition, substantive consolidation will allow the Interim Trustee, or a successor trustee, to submit a single claim to the Provident Capital Indemnity, Ltd. ("PCI") receivership estate on behalf of all the Ponzi Entities' common creditors. PCI was the maturity bond provider, chosen by Quality Investments, that was revealed as an independent Ponzi scheme in early 2011.⁸ Following an action by the US Securities and Exchange Commission, PCI is in receivership, and the PCI Receiver is holding more than \$1 million for the victims of the Quality Investments Ponzi scheme. Counsel for MQIC has had numerous conversations with the Receiver's counsel. It is the PCI Receiver's preference to receive a single claim on behalf of the Quality Investments offering for ratable distribution to the international victims who invested through the Quality Investments offering. Without a claim from the consolidated Quality Investments estate, the over 1,000 international victims will be required to make and defend individual claims in the SEC enforcement action pending in District Court the Eastern District of

⁸ See *Securities and Exchange Commission v. Provident Capital Indemnity, Ltd., Minor Vargas Calvo, and Jorge L. Castillo*, Case No. 3:11-cv-00045-JG in the United States District Court, Eastern District of Virginia (Richmond Division).

Virginia. Because of the administrative costs and difficulty in noticing and verifying the claims of foreign investors, the PCI Receiver, having conferred with the United States Securities and Exchange Commission, prefers that the Interim Trustee make a claim on behalf of all Quality Investments investor-creditors. Despite demands to do so by MQIC, the Interim Trustee has refused to submit a claim to the PCI Receiver.⁹ As a result of the Interim Trustee's inaction, \$1 million of this estate's assets remain in the PCI Receiver's accounts, while millions of dollars in lapses loom near.

8. By filing this Motion, MQIC seeks to put the urgent issue of substantive consolidation before this Court. A majority of bankruptcy courts, including those in Florida, have recognized that creditors, such as MQIC, have independent standing to seek substantive consolidation of related bankruptcy estates and non-debtor entities. A minority of courts, however, while not outright prohibiting this practice, suggest that it is more appropriate for debtors and/or trustees to seek substantive consolidation. Accordingly, should the Court determine that MQIC lacks independent standing to seek to substantively consolidate the Ponzi Entities, MQIC seeks an Order granting derivative standing to move this Court to hear MQIC's motion for substantive consolidation. If deemed necessary by this Court, MQIC should be granted derivative standing because (i) immediate substantive consolidation is necessary to protect wasting assets in which the creditors have a common ratable interest, and (ii) despite the overwhelming evidence supporting the necessity for seeking substantive consolidation, the Interim Trustee has refused to act, even after MQIC has made a formal demand that she seek substantive consolidation.¹⁰

⁹ Again, the Interim Trustee's reluctance to do so is driven by her desire first to preserve her position as trustee, and only after she preserves her position, to then do what is best for creditors.

¹⁰ The demand letter sent by counsel for MQIC to counsel for the Interim Trustee is attached hereto as **Exhibit C**.

BACKGROUND

9. As this Court is well aware, the above-captioned Debtor is one of dozens of Florida entities incorporated by Peck to perpetuate a fraud orchestrated by Peck and other individuals and entities premised upon the purchase of life insurance policies, which were packaged into purported investment vehicles for investors.

10. Peck is the sole member and registered agent of the Florida limited liability corporation Peck Associates Palm Beach, LLC d/b/a Deborah C. Peck P.A.¹¹ Through DPPA, Peck served as the trustee, with sole management authority, of all of the trusts that, per her sworn testimony, owned all of the shares of the Related Debtors and some of the Alter Ego entities. As is typical of the Peck trust agreements, the trust agreement executed in connection with the CLSF III IV Fund (the “III/IV Trust”) is governed by Florida law. Under that agreement, Peck owed a fiduciary duty to the named beneficiaries of the III/IV Trust. Attached hereto as **Exhibit D** is a copy of the III/IV Trust agreement.

11. Indeed, Peck has consistently held herself out as the trustee for all of the Ponzi Entities’ investors. On March 30, 2012, Peck sent an email to “Members of the QI Closed Funds” that acknowledged “those who have been paying premiums have effectively been supporting the non-paying members.” *See* email from Peck to investors dated March 30, 2012 attached hereto as **Exhibit E**. In that same email to investors, Peck admitted that “I have been required to ‘collectivize’ the premiums that I have received in order to keep the policies in force.” *Id.* The email is signed “Deborah C. Peck, Esq. Trustee.” As recently as July 7, 2012, Peck wrote to investors (the “July 7, 2012 Letter”), asserting that “between June 2012 through July 6, 2012, twelve policies have lapsed due to lack of payment of premiums.” The July 7, 2012 Letter is attached hereto as **Exhibit F**, and the letter is addressed from “Deborah C. Peck,

¹¹ Previously defined as “DPPA”

Trustee.” Among the other representations made by Peck in the July 7, 2012 Letter, she warned investors that “July 2012 poses a dire outlook with eight more policies lapsing between July 11 and July 31.” *Id.* She further represents that “without your premium monies being wired to the trustee account, I cannot service the policies and keep them in force. The only action left to me is to begin to sell the policies in order to preserve other policies.”¹² *Id.*

12. On August 22, 2012 (the “Petition Date”), Peter H.M.A. Ortman, Mildred A.H. Ortman, Marc Vandoorne, and MQIC, initiated an involuntary petition against CLSF III IV, Inc..

13. On the same date, the Petitioning Creditors filed an emergency motion for the appointment of an interim trustee (the “Interim Trustee Motion”) [ECF #3]. On August 24, 2012, the Court held a hearing on the Interim Trustee Motion (the “Interim Trustee Hearing”) [ECF #4].

14. According to Peck’s testimony at the Interim Trustee Hearing and as reflected in the public records, the Related Debtors are all owned by trusts that are controlled by her, as trustee, and were operated out of two locations: (i) 631 US Highway 1, 303, North Palm Beach, FL 33408,¹³ or (ii) 128 Victoria Bay Ct., Palm Beach Gardens, FL 33418.¹⁴ A copy of the transcript from the Interim Trustee Hearing is annexed hereto as **Exhibit G**.

15. From 2005 on, Peck maintained P.A. solely to facilitate her duties as trustee of the Ponzi Entities. *Id.* at p. 49. In connection with creating P.A., Peck caused P.A. to establish escrow accounts (the “Peck Trust Accounts”) through which she received and disbursed investor

¹² Peck did attempt to transfer the entire portfolio of insurance policies to Life Settlement Consulting, an Irish entity, but letters from investors to Irish regulators scuttled the attempted, unauthorized transfer.

¹³ This is a post office box location. Until July 2012, P.A. maintained an office with personnel.

¹⁴ According to Peck’s testimony, this is her primary residence. *See* Page 10 of the Interim Trustee Hearing Transcript.

funds at the sole discretion and direction of Watershed, LLC. *See, e.g., id.* at pp. 73. Peck further testified that she understood the accounts that ran through P.A. to be “Watershed’s escrow accounts” and that “there was never an effort made to create individual escrow accounts either with the particular fund or with particular investors.” *Id.* at pp.75-6. Instead of maintaining separate accounts for the investors in a particular fund, “[Watershed] had their own account that they would use for whatever purposes they chose.” *Id.* at 76.

16. As explained in the Interim Trustee Motion, approximately \$223,880,000.00 of Investor funds passed through the Peck Trust Accounts. Of that total, the FIOD concluded that at most \$50 million was used to purchase Policies. More than \$143,000,000.00 in investor funds were diverted for purposes *other* than purchasing policies or funding premium reserve accounts. Peck transferred approximately \$9,500,000.00 of investor funds from the Peck Trust Account for her own benefit. In addition, Peck impermissibly transferred at least \$45,000,000.00 from the Peck Trust Accounts to the Ponzi Entities’ insiders. *See* Interim Trustee Motion at pages 6-7 and the FIOD Report.

17. Peck further testified on multiple occasions that she impermissibly collectivized and pooled all of the investors’ funds into the Peck Trust Accounts in order to indiscriminately service policies as their premium payments came due, without regard to which Related Entity’s investors contributed those funds. *See e.g. Ex. G* at pp. 112 – 113.

18. For her services as trustee, Peck paid herself a salary of at least five hundred thousand dollars per year (\$500,000.00/year), a cumulative sum of at least three million dollars since she started managing the trusts. *See Id.* at page 113. The FIOD Report, however, reveals that she transferred \$9.5 million to herself for her personal benefit.

19. In addition to impermissibly commingling and disbursing the Investors' funds, Peck testified that she impermissibly transferred over twenty million dollars (\$20,000,000.00) of the investors' funds out of one of the Peck Trust Accounts to an offshore bank account in Dubai so those funds could be out of reach of domestic regulators who were independently investigating the PCI fraud. *See Id.* at pages 115-116.

20. In considering Peck's testimony at the Interim Trustee Hearing, the Court observed that the "assets of these various [related] entities . . . have been used to assist [each other]. There's been money transferred back and forth." *Id.* at pp. 124-5.

Does it matter . . . that this particular debtor may have, in fact benefitted [from the collectivization of the Ponzi Entities' assets]? It does not.

And the reason it does not is because if it, in fact, did benefit, that's an ephemeral benefit. It actually subjects the debtor to a claim [(the "Inter-Affiliate Claims")]. So [Peck] has put the debtor in the position of being sued . . .

So what do I have? I have a debtor that is potentially part of what may become a web of a number of related cases. . . But in the meantime, a number of where the debtor's principal and the trustee of the trust [Peck] has testified today that funds have been co-mingled, and that her intention, in fact, was to continue to do so.

Id. at pp. 153-4.

21. On August 24, 2012, based on Peck's testimony and the evidence presented at the Interim Trustee Hearing, the Court granted the Interim Trustee Motion (the "Interim Trustee Order") [ECF #13]. On August 28, 2012, Deborah Menotte (the "Interim Trustee") was appointed interim Chapter 7 trustee of the CLSF III/IV bankruptcy estate [ECF #17].

22. Commencing on October 24, 2012, Peck caused numerous Related Debtors to file voluntary Chapter 7 petitions.¹⁵ Deborah Menotte was appointed as the Interim Chapter 7 trustee in each Related Entity's bankruptcy case.

23. Almost every Related Debtor filed a substantially identical Schedule E, "Creditors Holding Unsecured Priority Claims", reflecting that they all had the same two employees, Daniela Ribeiro and Eva K. Hassenhuttl,¹⁶ and no others. Upon information and belief, these employees are, in fact, P.A.'s employees.

24. On or about November 29, 2012, and continuing thereafter, MQIC filed claims, on behalf of itself and additional claims for investors that nominated Jan De Schepper as their agent in each Related Debtor's bankruptcy case. A review of each Related Debtor's claims registers reflects that these claims are the largest claims on the registers, and in most cases represent a majority, and in some cases, all of the non-scheduled claims against certain Related Debtors.

25. On December 4, 2012, MQIC filed a motion seeking joint administration of each Related Debtor's bankruptcy case (the "Joint Administration Motion") [ECF #98]. The relief sought in the Joint Administration Motion was premised, in part, on:

- (a) the fact that the Related Debtors were affiliates and alter egos of each other and the Lead Debtor;
- (b) Peck's testimony that she comingled investors' funds that were earmarked for specific debtors; and
- (c) that joint administration would enhance the rights of all of the debtors' creditors by reducing the administrative costs resulting from joint administration (e.g. obviating the need for duplicative notices, motions, applications, hearings, and orders).

¹⁵ See Note 2 *infra*.

¹⁶ Upon information and belief, Ms. Ribeiro is the spouse of Dennis Moens, the principal of Watershed, who was arrested in the Netherlands in connection with the Quality Investments fraud.

26. The Interim Trustee objected to the Joint Administration Motion, but the Court overruled the objection, and on December 11, 2012, the Court entered the *Order of Joint Administration of Related Cases with CLSF III IV, Inc. as Lead Case* (the “Joint Administration Order”) [ECF #120]. In the Joint Administration Order, the Court found that joint administration of the Related Debtors’ bankruptcy proceedings “is proper and in the best interests of the estates and of their creditors.”

27. On January 22, 2013, the Court entered an order (the “Show Cause Order”) resolving the Interim Trustee’s and MQIC’s various show cause motions and multiple counts in the adversary proceeding emanating from the Debtor’s bankruptcy case styled: *Peter H.M.A. Ortman, et al. p v. Behl Corporation, et al.*, 12-01889-AP (the “Adversary Proceeding”) [ECF #145]. The Show Cause Order provides that the Court will enter a final judgment in the Adversary Proceeding providing, among other things, that:

- (a) Entities identified in the order are alter egos of the Debtor;
- (b) the Interim Trustee is authorized to administer all of the Alter Egos’ assets for the benefit of the Debtor’s estate; and
- (c) the Alter Egos shall immediately deliver to the Interim Trustee and account for her and/or any successor trustee for all of their property and assets.

28. On January 25, 2013, MQIC made a demand on the Interim Trustee to *inter alia* seek to substantively consolidate the Related Debtors’ estates, the Alter Egos, and P.A. Despite the fact that substantive consolidation is clearly warranted in these jointly administered cases, that the remedy would maximize the cumulative value of all of the Ponzi Entities’ assets through a consolidated estate, and that substantive consolidation is necessary to apply the enterprise’s funds to service imminently lapsing policies and reactivate some of the lapsed policies, the Interim Trustee, without justification, refused to seek the relief requested herein.

RELIEF REQUESTED AND BASIS THEREOF

29. Multiple Policies are at risk of lapsing and/or reaching the point beyond which they may not be reinstated without additional underwriting or litigation. On the other hand, other Policies, for example that underlying the obligation to CLSF VIII, Inc., a Related Debtor, have matured. Substantively consolidating the Ponzi Entities is warranted because, among other reasons, it will allow the Interim Trustee or her successor to use the CLSF VIII proceeds in part to pay premiums on all policies, stabilize the policy portfolio, and pursue a global solution for the benefit of all creditors.

30. Additionally, substantively consolidating P.A. with the other Ponzi Entities is necessary to allow the Interim Trustee to claw-back the over \$45,000,000.00 in fraudulent transfers that Peck transferred to the Ponzi Entities' insiders, including Peck. Considering that P.A. was the engine that facilitated the fraudulent scheme of which all of the Ponzi Entities were equal parts, drawing P.A. into a consolidated estate would enlarge the scope of these jointly administered cases for the benefit of creditors and would be enable the Interim Trustee or her successor to utilize the powers under Chapter 5 of the Bankruptcy Code.

31. MQIC respectfully requests that this Court enter an order substantively consolidating the P.A., the Florida Trusts, the Alter Egos, and the Related Debtors' bankruptcy estates into the estate of CLSF III IV. Additionally, to the extent that the Court determines that MQIC lacks independent standing to seek this relief, MQIC seeks derivative standing to do so.

A. Substantive Consolidation

32. A bankruptcy court's authority to substantively consolidate related bankruptcy estates is derived "by virtue of their general equitable powers." *Eastgroup Properties v. Southern Motel Ass'n, Ltd.*, 935 F.2d 245, 248 (11th Cir. 1991); *In re Pearlman*, 450 B.R. 219, 223

(Bankr. M.D. Fla. 2011) (“Under binding Eleventh Circuit Court of Appeals precedent, substantive consolidation is one of the bankruptcy court’s equitable powers arising under Bankruptcy Code §§ 105 and 302(b)”). Substantive consolidation “involves the pooling of the assets and liabilities of two or more Ponzi Entities; the liabilities of the entities involved are then satisfied from the common pool of assets created by consolidation” and its purpose is to ensure “the equitable treatment of all creditors.” *Id.*

33. The “basic criterion by which to evaluate a proposed substantive consolidation is whether ‘the economic prejudice of continued debtor separateness’ outweighs ‘the economic prejudice of consolidation.’” *Id.* at 249. “In other words, a court must ‘conduct a searching inquiry to ensure that consolidation yields benefits offsetting the harm it inflicts on objecting parties.’” *Id.* In adopting the so-called *Auto-Train* test for substantive consolidation, the Eleventh Circuit established that substantive consolidation is warranted when “(1) there is *substantial identity* between the parties to be consolidated; and (2) consolidation is necessary to *avoid some harm* or to *realize some benefit*.” *Id.* (emphasis supplied) (citing *Drabkin v. Midland-Ross Corporation (In re Auto-Train Corporation, Inc.)*, 810 F.2d 270 (D.C. Cir. 1987)).

34. Additionally, although P.A. is not currently a debtor, another court within this district recently recognized that “it is well within this Court’s equitable powers to allow substantive consolidation of entities under appropriate circumstances, whether or not all of those entities are debtors in bankruptcy.” *Kapila v. S&G Financial Services, LLC, et al. (In re S & G Financial Services of South Florida, Inc.)*, 451 B.R. 573, 582 (Bankr. S.D.Fla. 2011); *see also In re Alico Mining, Inc.*, 278 B.R. 586 (Bankr. M.D. Fla. 2002) (court granted creditor’s motion to substantively consolidate non-debtor’s assets with debtor’s estate based on equities of the case). As Peck testified, P.A. and its handful of trust accounts was maintained largely to receive and

process the investor funds solicited by Quality Investments and disposed of at the direction of Watershed. While Peck may have conducted some legitimate business through P.A. before the involuntary petition was filed, the inflow and outflow of hundreds of millions of dollars of investor funds through P.A.'s trust accounts as set forth in the FIOD Report reveals that P.A. was a material and critical player in the fraudulent enterprise. Indeed, P.A. was critical to the enterprise, and the conduit through which over \$100 million in fraudulent transfers flowed. Moreover, P.A. has not operated for some time. There will be no harm to P.A. in consolidating it with the Ponzi Entities, and any assets unrelated to the Quality Investments fraud have already been removed or easily could be.

35. Substantively consolidating P.A. with the Ponzi Entities is necessary (i) to use funds in the Peck Trust Accounts to maintain the Policies, avoid their lapsing, and maximize the value of the consolidated assets for the benefit of all the Ponzi Entities' creditors, and (ii) claw-back the numerous multi-million dollar fraudulent transfers that were made to the Ponzi Entities' insiders from the Peck Trust Accounts at the expense of the Ponzi Entities' creditors. Not only is the relief necessary to maximize the value of all of the assets related to the enterprise, but also it would be inequitable to allow Peck, P.A.'s, and the other Ponzi Entities' insiders to abscond with millions of the Investors' funds that P.A. fraudulently transferred to them.

36. Applying the foregoing standards to this case, substantive consolidation of Peck, P.A.'s assets and the Ponzi Entities' estates is plainly warranted. The facts readily satisfy both elements and all applicable factors listed in *Eastgroup*. The benefits to the creditors of consolidation far outweigh the harms. None of the Ponzi Entities is operating, and the harm, if any, would be minimal.

I. The Alter Egos Share a Substantial Identity

37. As detailed above, there is substantial identity between the Alter Egos. Some of the Ponzi Entities are trusts for which Peck was the sole trustee and custodian of the trust assets. In addition, Peck incorporated, was the sole member, sole officer, and registered agent for all of the Related Debtors and Alter Egos. Peck ran the Ponzi Entities as a single intertwined enterprise, disregarded or failed to observe corporate formalities, paid the Ponzi Entities' obligations without regard to which entity actually owed each obligation, and commingled their investors' funds in non-segregated bank accounts without regard to proper accounting practices, legal formalities, or documentation. In addition, Peck served as the "buyer" of various life settlements that were purchased by the trusts from Watershed. Peck testified that she took direction from Watershed regarding the disposition of all investor funds. So, it is no surprise that Peck would sign a \$6 million purchase agreement for a \$10 million life insurance policy that requires hundreds of thousands of dollars in premiums every year. Moreover, Peck operated all of the Ponzi Entities out of P.A.'s office, used the same employees to perform operational functions, and received all correspondence in a common mailbox and email address. Furthermore, Peck liberally paid herself a more than generous salary and made millions and millions of dollars worth of transfers to insiders from the P.A.'s accounts.

38. Under similar circumstances in *In re Pearlman*, the bankruptcy court for the Middle District of Florida found that there was substantial identity between multiple corporate entities and their principal that were all part of a single fraudulent scheme. *In re Pearlman*, 450 B.R. 219 (Bankr. M.D.Fla. 2011). The court found that the entities, including the principal, shared a substantial identity in light of the facts that their principal ran them with "little regard for corporate formalities and intermingled the Debtors' funds." *Id.* at 224. Similar

circumstances are present here. Namely, the Ponzi Entities were all managed by the same individual, Peck, who commingled their funds into a few accounts, failed to observe corporate formalities, caused the payment of liabilities of the Related Debtors without regard to the source of the funds, and threatened to keep doing it. As a result of these actions, the Ponzi Entities have claims against each other for the use of the former's assets for payment of the latter's obligations – the unwinding of which will be impossible. Thus, as in *Pearlman*, the Ponzi Entities share substantial identity.

II. Substantive Consolidation of the Ponzi Entities is Necessary to Avoid Substantial Harm and to Realize Benefits

39. Substantive consolidation is also necessary to avoid substantial harm and to realize benefits for the Ponzi Entities' creditors. At the outset, in light of the commingling of the Ponzi Entities' funds, Peck's general failure to observe corporate formalities, and the payment of Ponzi Entities' liabilities without regard to the source of the funds, it would be artificial and unfair to reimpose corporate separateness on the Ponzi Entities. Moreover, if it is even possible, it will likely be prohibitively expensive to attempt to disentangle the assets, liabilities, and affairs of the Ponzi Entities, to determine which Related Entity owes which liabilities, and to distribute each Related Entity's assets to its respective creditors. Attempting to undertake this task would drain much of the value from the Ponzi Entities' estates. Substantive consolidation, by contrast, would save considerable time and expense and would leave the Ponzi Entities' bankruptcy estate with more overall funds to distribute to all creditors.

40. Rather than depleting assets of the Ponzi Entities' estates in costly and impossible efforts to disentangle and segregate them, substantive consolidation would remedy the problem by pooling all assets and liabilities into one estate, which disposes of the need to reconstruct the Ponzi Entities' respective assets and liabilities. Relieving the Ponzi Entities' estates of this

burden is sufficient grounds, in and of itself, for substantive consolidation. *See In re Optical Technologies, Inc.*, 221 B.R. 909, 912 (Bankr. M.D.Fla. 1998) (finding substantive consolidation appropriate where, “[d]ue to the intermingling of operations, equipment and employees, it is now difficult if not impossible to segregate the assets and liabilities” making up each entity to be consolidated).

41. Additionally, given Peck’s practice of paying a Related Entity’s obligations with funds contributed by Investors in other Ponzi Entities, the Court can likely presume that the assets and liabilities of the Ponzi Entities are, at present, inequitably distributed across the Ponzi Entities’ bankruptcy estates. Theoretically some Related Debtors are beneficiaries of having their debts and obligations paid by other Related Debtors, and therefore will have disproportionately larger assets available to distribute to their creditors, while other Related Debtors who paid these debts and obligations will have been left with disproportionately fewer assets to distribute to their creditors. In addition, some creditors invested in multiple funds that were insured against the life of one individual. Those creditors are at greater risk of losing their investments should that individual outlive his or her life expectancy. All of this inequitable distribution of value, however, is theoretical today because cash is fungible, and once commingle into the trust account of DPPA, it is likely near impossible to accurately track and account. Pooling the policies in one portfolio spreads the risk across all policies and makes the portfolio more valuable.

42. Further, substantively consolidating P.A.’s assets, namely the avoidance powers that accompany it, with the Ponzi Entities will have the added substantial benefit of increasing the assets that will be available to distribute to the Ponzi Entities’ creditors. Accordingly, in the absence of substantive consolidation, some creditors will receive only a small distribution on

their claims, while other creditors may receive a disproportionately higher distribution. Substantive consolidation cures that harm by pooling all of the Ponzi Entities' assets and liabilities, ensuring that the creditors of all Ponzi Entities will share equitably, on a *pro rata* basis, in the total assets of the consolidated debtors.

43. In sum, here, substantive consolidation not only preserves the Ponzi Entities' assets for distribution and facilitates a more equitable distribution, but it also eliminates potential inequitable fraudulent transfer and other litigation based on the looming Inter-Affiliate Claims. Avoiding these costs is an independent basis for supporting substantive consolidation. In *Eastgroup*, the Eleventh Circuit concluded that the proponent of substantive consolidation had presented adequate evidence of "several possible harms to be avoided or benefits to be realized from consolidation." *Eastgroup*, 935 F.2d at 251. Notable among these harms, the court observed that one of the two consolidated entities had paid some of the other entity's obligations "without being contractually obligated to do so," and found that consolidation would "help see to it" that the creditors of the entity who paid such obligations "are not harmed by such transaction for which [the paying entity] received no consideration." *Id.* The same is true of this case. Substantive consolidation will at least "help see to it" that the creditors are not harmed by the Ponzi Entities' wrong payor payments, by pooling all assets and liabilities, and ensuring that all creditors share equitably on a *pro rata* basis in the consolidated assets of the Ponzi Entities' consolidated estate. In light of the myriad benefits conferred and harms avoided, MQIC has met its burden of proof, and the Ponzi Entities should be substantively consolidated for all purposes into a single estate.

III. All Applicable *Eastgroup* Factors Favor Substantive Consolidation

44. In evaluating a *prima facie* case for substantive consolidation, apart from the two-part test that *Eastgroup* adopted, it also suggested that proponents of substantive consolidation frame their request with the following list of non-exclusive factors in mind:

- (a) The presence or absence of consolidated financial statements;
- (b) The unity of interests and ownership between various corporate entities;
- (c) The existence of parent and intercorporate guarantees on loans;
- (d) The degree of difficulty in segregating and ascertaining individual assets and liabilities;
- (e) The existence of transfers of assets without formal observances of corporate formalities;
- (f) The commingling of assets and business functions;
- (g) The profitability of consolidation at a single physical location;
- (h) The parent owning the majority of the subsidiary's stock;
- (i) The entities having common officers or directors;
- (j) The subsidiary being grossly undercapitalized;
- (k) The subsidiary transacting business solely with the parent; and
- (l) Both entities disregarding the legal requirements of the subsidiary as a separate organization.

Id. at 249-50. These factors, however, are only “examples of information that may be useful to courts charged with deciding whether there is a substantial identity between the entities to be consolidated and whether consolidation is necessary to avoid some harm or to realize some benefit,” and “[n]o single factor is likely to be determinative in the court’s inquiry.” *Id.*

45. To the extent that the *Eastgroup* factors are applicable here, they all favor substantive consolidation. In large part, substantive consolidation is warranted due to Peck’s

impermissible commingling of the Ponzi Entities' assets and substantial fraudulent transfers to insiders. This practice has created a tangled web of claims that each entity has against each of its 30+ affiliates, the unwinding of which will be impossible because of Peck's failure to account properly for the separate assets and accounts of each Related Entity.

The Unity of Interests and Ownership Between the Various Corporate Entities

46. There is complete unity of management between all of the Ponzi Entities. Peck served as the trustee for all of the trusts that owned 100% of the stock in all of the Related Debtors and Alter Egos. She alone was responsible for administering and maintaining the Policies for the benefit of all of the Investors. Accordingly, this factor favors substantively consolidating the Peck, P.A.'s assets and the Ponzi Entities' bankruptcy estates.

The Existence of Parent and Intercompany Guarantees on Loans

47. It does not seem that the Ponzi Entities explicitly guaranteed each other's loans or obligations. However, by using funds earmarked for a specific Related Entity to maintain the Policy benefitting investors in a different entity, Peck inherently created obligations that one Related Entity owed to another i.e. the Inter-Affiliate Claims. This factor also favors substantive consolidation.

The Degree of Difficulty in Segregating and Ascertaining Individual Assets and Liabilities

48. As this Court has recognized, the Ponzi Entities are inextricably bound in a web of Inter-Affiliate Claims due to Peck's commingling of their separate Investors' funds. Unwinding this web and determining each of the 30+ Ponzi Entities' Inter-Affiliate Claims against each other will be impossible. Therefore, this factor also weighs in favor of substantive consolidation.

The Existence of Transfers of Assets Without Formal Observances of Corporate Formalities

49. Neither the documents establishing the Ponzi Entities nor the Florida Trust Code permitted commingling of the Ponzi Entities' assets. Similarly, the Investors did not consent to their funds being collectivized. Nonetheless, Peck commingled the Ponzi Entities' funds and used them as she deemed fit, including impermissibly wiring over twenty million dollars to an offshore bank account in Dubai and impermissibly paying herself and insiders over forty-five million dollars (\$45,000,000.00) during the course of her "trusteeship" – a particularly egregious amount in light of the Policies' severely distressed status. These facts also support substantive consolidation.

The Commingling of Assets and Business Functions

50. As this Court has already observed, Peck commingled all of the Ponzi Entities' funds and collectivized and disbursed them without regard to their source initial source.

The Entities Having Common Officers or Directors

51. Peck was the sole member and officer of all Ponzi Entities and served as trustee of all of the trusts that held 100% of the stock in each of the Related Debtors. This factor also favors substantive consolidation.

IV. Additional Considerations Favor Substantive Consolidation

52. In addition to satisfying the *Eastgroup* test, substantive consolidation is warranted due to the fact that the Ponzi Entities are in fact each other's alter egos, a fact that this Court has already recognized with regard to dozens of entities that comprise the Ponzi Entities.

53. Bankruptcy courts recognize that it is appropriate to substantively consolidate related alter ego entities. *See e.g. In re Permian Producers Drilling, Inc.*, 263 B.R. 510, 516 (Bankr. W.D.Tx. 2000) (finding that substantive consolidation of affiliated debtors is particularly

appropriate when they are alter egos). Here, in the Show Cause Order, the Court found numerous of the Ponzi Entities to be Alter Egos, as such, the Interim Trustee is authorized to administer all of their assets for the benefit of their creditors. This finding and grant of authority, effectively pools all of those entities' assets – one of the primary functions of substantive consolidation. Substantive consolidation complements this relief by authorizing the Interim Trustee or her successor to collectivize all of the Ponzi Entities' assets, maximize the value of the insurance portfolio, and treat all of the creditors similarly for distribution purposes.

54. Furthermore, as the Eleventh Circuit Court of Appeals recognized in *Eastgroup*, substantive consolidation is a creditors' remedy. Here, the Ponzi Entities' largest creditor, MQIC, seeks substantive consolidation.¹⁷ Accordingly, if ever there was a circumstance in which substantive consolidation is appropriate, it is this one.

B. Standing

I. The Weight of Authority Holds that MQIC has Independent Standing to Seek to Substantively Consolidate the Ponzi Entities' Estates and P.A.'s Assets

55. Although a majority of courts, including sister bankruptcy courts in Florida, have recognized that creditors, such as MQIC, have independent standing to seek to substantively consolidate affiliated debtors' bankruptcy estates, MQIC acknowledges that there is a split of authority on this issue and that a minority of courts suggest that only a trustee has independent standing to do so. Accordingly, out of an abundance of caution, and to the extent that this Court adopts the minority approach, MQIC seeks derivative standing to seek to substantively consolidate the Related Debtor's, trusts, and Alter Egos' bankruptcy estates.

56. While the Eleventh Circuit Court of Appeals has not decided whether or not a creditor has independent standing to move for substantive consolidation, the Bankruptcy Court

¹⁷ MQIC is aware that the Interim Trustee has objected to its filed claims. These objections will be of no moment if the court orders substantive consolidation.

for the Middle District of Florida has found it proper for a creditor to bring this type of motion. *See e.g. Pearlman*, 450 B.R. 219 (at least 30 creditors and other parties-in-interest filed and/or supported motions to substantively consolidate 11 affiliated bankruptcy estates); *see also Alico Mining*, 278 B.R. 586 (Bankr. M.D. Fla. 2002) (bankruptcy court found that a creditor had standing to file a motion to substantively consolidate related debtors' bankruptcy estates). Similarly, numerous district and bankruptcy courts in other jurisdictions have held it proper for creditors to bring this type of motion. *See In re Gordon Properties, LLC*, 478 B.R. 750, 757 (Bankr. E.D.Va. 2012) (rejecting appellee's argument that only trustees or debtors-in-possession have standing to seek substantive consolidation); *In re Lahijani*, 2005 WL 4658490 *1, *5 (Bankr. C.D. Ca. 2005) (court found that creditors have stand to bring a motion for substantive consolidation) (*citing In re Stone & Webster, Inc.*, 286 B.R. 532 (Bankr. D.Del. 2002) (granting consolidation motion filed by Official Committee of Equity Security Holders)); *In re New Center Hospital*, 187 B.R. 560 (E.D. Mich.1995) (granting *nunc pro tunc* consolidation on creditors' motion); *In re Baker & Getty Fin. Serv., Inc.*, 78 B.R. 139 (Bankr. N.D. Ohio 1987) (allowing substantive consolidation on creditors' motion); *In re Crabtree*, 39 B.R. 718 (Bankr. E.D. Tenn. 1984) (granting creditors' motion for substantive consolidation); *In re 1438 Meridian Place, N.W., Inc.*, 15 B.R. 89 (Bankr. D.C. 1981) (finding substantive consolidation appropriate following creditors' motion). Accordingly, based on the weight of persuasive authority holding that creditors and other parties-in-interest have standing to seek substantive consolidation, MQIC submits that it has independent standing to seek the relief requested herein.

II. In the Alternative, MQIC is Entitled to Derivative Standing

57. Should the Court determine that MQIC lacks independent standing to seek to substantively consolidate the Ponzi Entities, MQIC asserts that the Court should grant it

derivative standing to do so.¹⁸ Courts have generally required that a party satisfy a four element test before it can pursue claims on behalf of a debtor's estate: (i) a demand must have been made upon the trustee to bring such action; (ii) the demand is declined; (iii) a colorable claim that would benefit the estate if successful exists, based on a cost-benefit analysis performed by the court; and (iv) the inaction is an abuse of discretion (i.e. unjustified) in light of the trustee's duties. *See In re G-I Holdings, Inc.*, 313 B.R. 612, 630 (Bankr. D.N.J. 2004)

The Interim Trustee Refused MQIC's Demand to Seek to Substantive Consolidation

58. As discussed, the Interim Trustee refused MQIC's demand that she seek substantive consolidation.

Substantive Consolidation is a Colorable Claim

59. The case law construing the requirement for "colorable" claims clearly provides that the requisite showing is a relatively low threshold to satisfy. To determine whether the claim, in this case substantive consolidation, is colorable, the Court must determine whether MQIC has asserted "claims for relief that on appropriate proof would support a recovery." *G-I Holdings, Inc.*, 313 B.R. at 631 (quoting *Unsecured Creditors Comm. of STN Enters., Inc. v. Noyers (In re STN Enters.)*, 779 F.2d 90, 905 (2d Cir. 1985); *Tennessee Valley Steel Corp. v. B.T. Commercial Corp. (In re Tennessee Valley Steel Corp.)*, 183 B.R. 795, 799-800 (Bankr. E.D.Tenn. 1995); *In re America's Hobby Center, Inc.*, 223 B.R. 275, 288 (Bankr. S.D.N.Y. 1998) (observing that only if the claim is "facially defective" should standing be denied); *In re Colfor, Inc.*, No. 96-60306, 1998 WL 70718, at *2 (Bankr. N.D. Ohio Jan. 5, 1998) (stating that consistent with the common meaning of "colorable," that the claims to be asserted need only be "plausible" or "not without some merit"). Within the Eleventh Circuit, it has been held that in

¹⁸ See generally *In re Archdiocese of Milwaukee*, --- B.R. ---, 2012 WL 6093494 (Bankr. E.D.Wis. 2012). Although derivative standing was denied in that case, it was denied due to the merits of the underlying substantive consolidation claim and not for the lack of availability of the remedy.

determining whether a colorable claim exists, the court must engage in an inquiry “much the same as that undertaken when a defendant moves to dismiss a complaint for failure to state a claim.” *iPCS*, 297 B.R. at 291.

60. As set forth in more detail above, the Ponzi Entities are prime candidates for substantive consolidation. Substantive consolidation is warranted due to, among other things: their impermissible and substantial commingling of assets and business functions, unity of management and ownership, informal transfer of assets without formal observance of corporate formalities, and the substantial cost savings and maximization of enterprise value that the relief would afford. Accordingly, MQIC has alleged a colorable claim that would benefit the Ponzi Entities’ creditors.

The Interim Trustee’s Refusal is an Abuse of Discretion

61. In light of the Interim Trustee’s statutory duties to maximize the value of the Related Debtors’ estates and minimize the costs and expenses associated with administering those estates, her refusal to seek the relief requested is an abuse of her discretion and a breach of her duty. Simply put, there is no good reason that the Interim Trustee should not be seeking to substantively consolidate the Ponzi Entities into one estate. If no trustee election were pending, the Interim Trustee would have sought substantive consolidation immediately after the conclusion of the 341 meetings. Her failure to do so now is symptomatic only of her self-interest and not a result of hesitation with the remedy.¹⁹

62. Furthermore, due to the substantial Inter-Affiliate Claims that each Related Entity possesses against the other Ponzi Entities, the Interim Trustee is *conflicted* from serving as trustee of their separate estates. Substantive consolidation, however, would allow for a single

¹⁹ If the Interim Trustee is retains her position as trustee, MQIC fully expects that she will immediately change her position and assert that substantive consolidation is necessary for the benefit of creditors.

trustee to administer all of the estates because it would cleanse the conflict by eliminating these claims. The inherent conflicts between the Related Debtors' estates underscore the unreasonableness of the Interim Trustee's refusal to seek to substantively consolidate the Ponzi Entities.

63. Accordingly, should the Court determine that MQIC lacks independent standing to seek to substantively consolidate the Ponzi Entities into one estate, MQIC should be granted derivative standing to pursue that relief.

C. Procedure

64. Finally, MQIC submits that seeking the relief requested herein by motion, instead of by way of initiating an adversary proceeding, is warranted as that was the mechanism by which substantive consolidation was sought in *Eastgroup* and has consistently been recognized as proper by courts in this district since then. *See e.g., In re Puig, Inc.*, 2008 WL 8585241 FN 2 (Bankr. S.D.Fla. 2008); and *In re F.W.D.C., Inc., et al.*, 158 B.R. 523 (Bankr. S.D.Fla. 1993).

CONCLUSION

65. The circumstances before us present the prototypical scenario in which estates should be substantively consolidated. Peck and her coconspirators ran the Ponzi Entities as equal parts of one fraudulent enterprise. By impermissibly collectivizing the investors' funds, which were supposed to be earmarked to maintain their specific investments, and then using those funds to maintain policies unrelated to those investors' investments, Peck inherently created a scheme of "winners" and "losers" whereby some investors are benefitting from payments made by those unrelated to their investment funds. Her mismanagement of the Ponzi Entities has produced an intricate web of Inter-Affiliate Claims whereby almost every Related

Debtor may have claims against all other of its affiliated Related Debtors. Substantive consolidation is necessary to “level the playing field.”

66. Additionally, the Interim Trustee is inherently conflicted from serving as trustee of more than one Related Debtor’s estate as the Inter-Affiliate Claims make it impossible for her to carry out her fiduciary duties if the *status quo* is maintained. Substantive consolidation by contrast would eliminate these Inter-Affiliate Claims and vindicate the Bankruptcy Code’s central policy of equality of distribution.

WHEREFORE, MQIC respectfully requests an order of this Court substantively consolidating the Ponzi Entities into one estate, and for all further relief that the Court deems just and equitable.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

Respectfully submitted by:

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ⁱ The Alter Ego entities include the following non-debtor entities: BGI 2 Life Inc., a Florida Corporation, BGI I LIFE INC., a Florida corporation, BGI II LIFE INC., a Florida corporation, BGI IX CORP., a Florida corporation, BGI VII CORP., a Florida corporation, BGI VIII CORPORATION, a Florida corporation, BGI X CORP., a Florida

corporation, BGI XI CORP., a Florida corporation, BGI XII CORP., a Florida corporation, BGI XIV CORP., a Florida corporation, BGI XIX CORPORATION, a Florida corporation, BGI XV CORP., a Florida corporation, BGI XVI CORP., a Florida corporation, BGI XVIII CORP., a Florida corporation, BGI XXIX CORP., a Florida corporation, BGI XXI, CORP., a Florida corporation, BGI XXII, CORP., a Florida corporation, BGI XXIV CORPORATION, a Florida corporation, BGI XXV CORPORATION, a Florida corporation, BGI XXVI CORPORATION, a Florida corporation, BGIF 18 UA DATED 2-1-2010, BGIF 19 UA DATED 2-1-2010, CLSF 1A CORPORATION, a Florida corporation, CLSF 3-4 A CORPORATION, a Florida corporation, CLSF 3-4 CORPORATION, a Florida corporation, CLSF 7 A CORPORATION, a Florida corporation, CLSF IX INC., a Florida corporation, CLSF XII INC., a Florida corporation, CLSF XLII INC., a Florida corporation, CLSF XLIII, INC., a Florida corporation, CLSF XVIII INC., a Florida corporation, CLSF XXX INC., a Florida corporation, CLSF XXXII INC., a Florida corporation, CLSF XXXIV INC., a Florida corporation, CLSF XXXIX INC., a Florida corporation, CLSF XXXVI INC., a Florida corporation, CLSF XXXVIII INC., a Florida corporation, CLSF XXXXII CORPORATION, a Florida corporation, CLSF XXXXIII CORPORATION, a Florida corporation, CLSF XXXXIV., a Florida corporation, CLSF XXXXV CORPORATION, a Florida corporation, CLSF XXXXVI CORPORATION, a Florida corporation, THE FEYGA DARMANYAN INS. TRUST UA DATED 10-07; THE FRIEDMAN TRUST CORP, a corporation, FRIEDMAN TR CORP a Florida corporation, THE GUBERMAN TRUST, THE GUBERMAN TR CORP, a Florida corporation, HASSAN JOHER FAMILY INSURANCE TRUST, THE HASSAN JOHER FAMILY INSURANCE NATIONAL TRUST CORPORATION, a Florida corporation, THE IBRAHIM RABADI TRUST DATED 2-3-2011, JOHER FAMILY TRUST DATED 9-10-2010, THE JOHER FAMILY AVIVA INSURANCE TRUST CORPORATION, a Florida corporation, THE KLARA ROSENBERG INSURANCE TRUST DATED 8-19-2012, THE HASSAN JOHER INSURANCE TRUST, THE HASSAN JOHER FAMILY INSURANCE NATIONAL TRUST CORPORATION a Florida corporation, LSF II INC., a Florida corporation, LSF V INC., a Florida corporation, MP XXVI INC., a Florida corporation, THE RABADI LIFE INSURANCE TRUST RYAN TR CORP, a Florida corporation, THE SPECTOR TRUST UA DATED 4-27-2010, THE SPECTOR TR CORP, a Florida corporation, THE TEICHMAN TRUST CORPORATION, a Florida corporation, THE TEICHMAN TR CORP, a Florida corporation, THE LUNDVALL TR CORP., a Florida corporation, THE LIP CORPORATION, a Florida corporation, THE LIP II TRUST CORPORATION, a Florida corporation, THE LIP III TRUST CORPORATION, a Florida Corporation, THE MARTHA ELLIOTT INSURANCE TRUST CORPORATION, a Florida corporation, and THE RIBADI TR CORP, a Florida corporation. *See Order Granting In Part Interim Trustee's Emergency Motion for Orders to Show Cause*, ECF# 88 in Adversary Case No. 12-01889-EPK.

Exhibit “A”

1 UNITED STATES BANKRUPTCY COURT
2 FOR THE SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION

4 IN RE: CASE NO. 12-36944-BKC-EPK
5 CLSF VIII, INC.,
6 Debtor.
7 _____/

8
9
10 SECTION 341 MEETING OF CREDITORS
11
12

13 December 11, 2012
14
15

16 The above-entitled cause came on for
17 a Section 341 Meeting of Creditors before DEBORAH
18 C. MENOTTE, TRUSTEE, Room 870, at 1515 North Flagler
19 Drive, West Palm Beach, Palm Beach County, Florida
20 on December 11, 2012, commencing at or about
21 9:00 a.m., and the following proceedings were had:
22
23

24 Reported By: Bonnie Tannenbaum
25

1 APPEARANCES:

2 DEBORAH C. MENOTTE, CHAPTER 7 TRUSTEE

3
4 BERGER SINGERMANN, by
5 LESLIE GERN CLOYD, ESQUIRE
6 On behalf of Deborah C. Menotte, the Chapter 7
7 Trustee

8 OFFICE OF THE UNITED STATES TRUSTEE, by
9 HEIDI A. FEINMAN, TRIAL ATTORNEY
10 On behalf of the Office of the United States Trustee

11 BRETT A. ELAM, P.A., by
12 BRETT A. ELAM, ESQUIRE
13 On behalf of the Debtor

14 EHRENSTEIN CHARBONNEAU CALDERIN, by
15 ROBERT CHARBONNEAU, ESQUIRE
16 and
17 HERRON JACOBS ORTIZ, by
18 ANDREW R. HERRON, ESQUIRE
19 BRIAN LECHICH, ESQUIRE
20 and
21 O'QUINN STUMPHAUZER, P.L., by
22 RYAN O'QUINN, ESQUIRE
23 On behalf of the MQIC, SPQI and the Petitioning
24 Creditors

25 RICE PUGATCH ROBINSON & SCHILLER, by
KENNETH B. ROBINSON, ESQUIRE
On behalf of Gerke Schutte

Continued

FRANK, WHITE-BOYD, P.A., by
JULIANNE R. FRANK, ESQUIRE
Prospective Counsel for the Class 8 Creditors

ALSO PRESENT:

GERKE SCHUTTE
EELCO J. HOMAN
JAN DE SCHEPPER
JEAN FRANCOIS LYCOPS

INDEX

WITNESS	EXAMINATION
DEBORAH PECK	
By Ms. Menotte	13
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By Mr. De Schepper	24
By Mr. Robinson	27

1 MS. MENOTTE: Okay. This is Case Number
2 12-36944, known as CLSF VIII, Inc.

3 MS. FEINMAN: Once again, I'm Heidi Feinman
4 for the U.S. Trustee's Office, and I am the presiding
5 officer, Ms. Menotte is the interim trustee.

6 Debtor's counsel, if you'd like to state
7 your name?

8 MR. ELAM: Brett Elam for the debtor.

9 MS. FEINMAN: And the representative?

10 MS. PECK: Deborah Peck.

11 MS. FEINMAN: I'll swear you in again.

12 THEREUPON:

13 DEBORAH PECK
14 after having been first duly sworn, was examined and
15 testified as follows:

16 MS. FEINMAN: Okay. And this meeting is
17 being recorded. Everyone who is here who needs to
18 speak should speak loudly and clearly so that it can
19 be recorded, and so that the court reporter can get
20 it all down. You should state your name and who you
21 represent before you speak.

22 I do have a sign-in sheet, I assume
23 everybody here is the same as in the last one,
24 correct, so we'll just assume that it's the same as
25 in CLSF III IV.

1 And, again, the business of the meeting is
2 to examine the debtor regarding its financial affairs
3 and to conduct a trustee election under Bankruptcy
4 Rule 702 and the related rules if one is requested.

5 If any party requests an election, one will
6 be conducted, and I will conduct that election and
7 file a report to the Court. I don't have any
8 authority to adjudicate any issues regarding the
9 election, and any disputes will be decided by the
10 Bankruptcy Court. You will have 14 days after the
11 election report is filed to request the Court resolve
12 any disputes, and during that time, the interim
13 trustee will remain in place, and if there is no
14 request to resolve any disputes, the interim will
15 become the permanent trustee.

16 Does anybody, at this point, request an
17 election?

18 MR. HERRON: Yes.

19 MS. MENOTTE: Name?

20 MS. FEINMAN: State your name.

21 MR. HERRON: I'm sorry, Andrew Herron on
22 behalf of MQIC, and various proxies that it holds,
23 and various proxies held by Eelco Homan on behalf of
24 SPQI.

25 MS. FEINMAN: Okay. And if you have

1 proxies, have you provided proxies?

2 MR. HERRON: Yes, we have proxies for both
3 of -- some for MQIC, and we did a filing of our
4 proxies in this case.

5 MS. FEINMAN: Okay. Ms. Frank, did you
6 sign the original attendance sheet?

7 MS. FRANK: I did.

8 MS. FEINMAN: Okay. Good. I just want to
9 make sure that I didn't forget anything.

10 Okay. Does anybody else have proxies who
11 is interested in participating in today's election?

12 No? Okay. All right. Is anybody
13 objecting to the request for an election, the proofs
14 of claim or any of the proxies?

15 MS. FRANK: Ms. Feinman, Julianne Frank, I
16 prospectively believe I will be representing the
17 Class 8 investor group who, to some extent, is
18 undefined at this moment. I recently was solicited
19 for this role, as early as 48 hours ago. I received
20 powers of attorney from them which I've advised them
21 don't do the trick, but they have all, at least
22 expressed in writing, their intention to have me
23 serve as counsel.

24 So I would respectfully request that
25 because this case was either one of the latest, if

1 not the latest one to be filed, and less than 45 days
2 has transpired since the filing of this case, if
3 there is a way that Madam Interim Trustee and you
4 would consider a continuation of this 341 so that I
5 can have an opportunity to become formally retained
6 and, if not, I will levy my thoughts on their behalf
7 in an effort to preserve their rights today.

8 And in that vein, if you're not prone to
9 continue this 341 then, yes, I believe they should
10 have an opportunity to vote their proxy. I know they
11 have objections which I can put on the record as to
12 the existing claim that I believe is attempting to be
13 filed here by MQIC.

14 For the record, our objection to that is I
15 don't believe MQIC, first of all, represents all of
16 the investors in Class 8, it may, at best, represent
17 two, and I think that I have written indication that
18 those two have told me that they don't want to be
19 part of the MQIC group.

20 Furthermore, they filed a proof of claim
21 which we believe can't possibly be valid, it's over
22 four-and-a-half million dollars, and the total
23 asset -- a finite total asset body in this case,
24 which doesn't appear to be able to exceed \$3 million.

25 I think under 2003(b)(3), we're allowed to

1 invoke a verbal objection to that claim, so I don't
2 think they have claim capacity for voting, nor do I
3 think that under 2006(f) do I have to necessarily
4 object to the proxies at or prior to the 341, so I
5 would like an opportunity to ultimately object to
6 whatever proxies are being invoked, and all of that
7 is provisional and conditional, because I'm not sure
8 that I would necessarily be convincing my clients to
9 get involved in the proxy fight for who should or
10 should not be the trustee in this case, but if we're
11 going to go forward, I would, you know, certainly
12 like the opportunity to ask Ms. Peck, you know, a
13 couple of questions, and I would reserve all our
14 rights to further object to the proxy fight, and the
15 voting fight, with respect to whether Ms. Menotte
16 should continue to be the trustee.

17 MS. FEINMAN: Okay. At this time, it's not
18 the U.S. Trustee's inclination to go ahead and
19 continue this. It is the first 341 Meeting, the
20 first called, and so therefore it has to be today,
21 but I appreciate you're requesting -- making the
22 offer, and everything is on the record.

23 Are there any other objections to the
24 election requests, proofs of claim or proxies?

25 MS. MENOTTE: Interim Trustee, same

1 objection that we raised on CLSF III IV.

2 MS. FEINMAN: Anybody else? Okay. I'm
3 going to continue with the process, because I cannot
4 determine whether we have met the requirements or
5 not. Those parties who are intending to vote in the
6 election, could you please state your name?

7 MR. DE SCHEPPER: Jan De Schepper, MQIC,
8 and I vote -- in Claim Number 1, \$4,781,531.01, and I
9 also vote for Claim Number 4, \$163,404,818.20. And
10 maybe I can add that we -- every other claim we make
11 in every fund can be seen as a claim in every
12 specific fund.

13 MR. ROBINSON: I'm sorry, can you repeat
14 that?

15 MR. DE SCHEPPER: Yes, every claim MQIC
16 makes in every different fund can be also seen as a
17 claim in every fund because of the structure of
18 the --

19 COURT REPORTER: Structure of the fund?

20 MR. DE SCHEPPER: Fraud.

21 COURT REPORTER: Fraud, okay, I'm sorry.

22 MS. FEINMAN: Anybody else who is intending
23 to vote?

24 MR. HOMAN: Eelco Homan voting for the SPQI
25 members, there's 32 votes.

1 MS. FEINMAN: Anybody else intending to
2 vote? All right. Is anybody objecting to these two
3 individuals' eligibility to vote?

4 MS. FRANK: Yes, provisionally, yes.

5 MS. FEINMAN: And state, just for the
6 record --

7 MS. FRANK: Yes, provisionally --

8 MS. FEINMAN: Julianne Frank for --

9 MS. FRANK: Julianne Frank, I'm sorry, for
10 the prospective Class 8 investors. We believe the
11 claims are invalid, we believe they're duplicative,
12 so they should be, at best, parcelled to determine
13 voting weight with respect to this case. We don't
14 believe they necessarily have voting authority with
15 respect to some of the parties who potentially are
16 appearing in those proxies, and we intend to invoke
17 the same objections that the interim trustee's
18 counsel has put of record with respect to the main
19 case.

20 MS. FEINMAN: Okay. Anybody else?

21 MR. O'QUINN: Ms. Feinman, I'd just like to
22 address on the record on behalf of MQIC and the
23 members of SPQI, we don't understand the concept of
24 provisional representation, we would ask that counsel
25 either state an appearance or not state an

1 appearance, but to lodge an objection on behalf of a
2 client that one can't even say they represent, to us,
3 is not appropriate in this proceeding.

4 MS. FEINMAN: Okay. Anybody else objecting
5 to these individuals' eligibility to vote?

6 MS. CLOYD: Yes, Leslie Cloyd, Berger
7 Singerman, on behalf of the interim trustee, Deborah
8 Menotte. We stated a number of objections on the
9 record with regard to CLSF III IV, Inc., the lead
10 case, Case Number 12-30081, and we would reiterate
11 those same objections with regard to MQIC and SPQI
12 with regard to the CLSF VIII case, and those are the
13 objections to the claims as well as the proxies,
14 solicitation, and all the other grounds set forth on
15 CLSF III IV, Inc.

16 MS. FEINMAN: Any other objections?

17 Okay. At this point, I will take
18 nominations for trustee.

19 MR. HERRON: MQIC and the proxy holder for
20 SPQI members nominate Maggie Smith.

21 MS. FEINMAN: Okay. Anybody objecting to
22 the eligibility of Ms. Smith to serve as Chapter 7
23 trustee at this point?

24 Okay. So, at this point, I can distribute
25 the ballots again. I need to have -- how many

1 ballots do I need over and above what you have?

2 MR. HERRON: We need one for -- yeah, we
3 just need one, and then it's duplicate for all the
4 others for SPQI.

5 MS. MENOTTE: Does this need to be on the
6 record, off the record?

7 MS. FEINMAN: No, this can be off the
8 record.

9 MS. MENOTTE: Okay.

10 (Thereupon, a brief recess was taken.)

11 MR. HERRON: Okay. I'm handing you the
12 request for election form, and here is a ballot for
13 MQIC, which together with the duplicative ones that
14 we described from the last one, which would be the 32
15 from the SPQI proxies, and the one MQIC repetitive
16 claim.

17 MS. FEINMAN: And I will make copies of
18 those and add those to this.

19 As I indicated before, I can't determine
20 now who -- if there is an undisputed election, so I
21 will file a report. If it is a disputed election,
22 again, once the report is filed, you will have 14
23 days to request the Court resolve the issues, and
24 until such time after that, Ms. Menotte -- or until
25 that time, Ms. Menotte will stay in as interim

1 trustee.

2 Again, I thank everybody for their
3 participation, and I'm going to let Ms. Menotte
4 question the debtor under oath.

5 EXAMINATION

6 BY MS. MENOTTE:

7 Q. Okay. You read the schedules prepared for
8 you before they were signed?

9 A. Yes, I did.

10 Q. Understood what you were signing?

11 A. I did.

12 Q. Listed all of the assets and all of the
13 debts of the debtor?

14 A. Yes.

15 Q. Okay. This particular case, the insured
16 has passed away, and I have received proceeds from
17 MetLife for the policy. A request was made for the
18 proceeds of the policy; did you make that request?

19 A. I did not.

20 Q. Do you know who made the request?

21 A. I do not.

22 MS. MENOTTE: For everyone that's here, I
23 have in a separate escrow account in the name of CLSF
24 VIII, Inc. a check deposited for \$3,017,095.89. I've
25 put it in a special escrow account so that the bank

1 service fees will not be deducted from that account
2 until we figure out where that money goes.

3 MR. HERRON: Does it earn any interest?

4 MS. MENOTTE: No. You're lucky that I'm
5 keeping it from being charged \$3,000 a month in bank
6 service fees. And no opinion has -- I have not made
7 an effort, trying to keep administrative expenses at
8 a minimum, to retain or employ an opinion of a CPA as
9 to whether that is or is not a taxable policy, so
10 somebody else either may down the road, or somebody
11 else down the road will have to deal with that issue.

12 BY MS. MENOTTE:

13 Q. Any amendments you need to make to these
14 schedules?

15 A. No.

16 Q. These schedules are essentially the same in
17 this estate as in all the estates?

18 A. I believe so.

19 MS. MENOTTE: I don't have any other
20 questions.

21 Mr. O'Quinn?

22 MR. O'QUINN: Ryan O'Quinn.

23 EXAMINATION

24 BY MR. O'QUINN:

25 Q. You scheduled some creditors on Schedule F,

1 are any of those purported employees of the debtor?

2 A. I don't have it in front of me.

3 MS. MENOTTE: Here, I'll let you look.

4 Schedule F?

5 MR. O'QUINN: Yes -- E, I'm sorry, Schedule
6 E.

7 MS. MENOTTE: Okay.

8 MR. O'QUINN: Schedule F.

9 MS. MENOTTE: E does have Daniela and Eva,
10 the same as the previous case.

11 MR. O'QUINN: And what about Schedule F?

12 MS. MENOTTE: I'll let her look at Schedule
13 F. The question is as to whether any of those
14 entities or creditors listed are employees, correct?

15 MR. O'QUINN: Yes, ma'am.

16 MS. MENOTTE: Okay.

17 THE WITNESS: Some of these are people that
18 are entities that provided services to all of the
19 policies --

20 MS. MENOTTE: Right.

21 THE WITNESS: -- the corporations, et
22 cetera.

23 MS. MENOTTE: Right. The question was, are
24 any of them employees?

25 THE WITNESS: No.

1 BY MR. O'QUINN:

2 Q. Did the alleged debtor issue 1099 forms to
3 any of the creditors in that -- the debtor?

4 A. No.

5 Q. The policy that is the asset -- the primary
6 asset owned by this debtor, was it purchased with
7 funds that came from your IOTA trust account?

8 A. Repeat the question.

9 Q. Was the insurance policy that is owned by
10 this debtor, was owned by this debtor, prior to its
11 maturity purchased with funds from the commingled --
12 quote IOTA trust account?

13 A. Yes.

14 MR. O'QUINN: No further questions.

15 MS. MENOTTE: Anyone else?

16 MS. FRANK: Yes, if I could.

17 EXAMINATION

18 BY MS. FRANK:

19 Q. Ms. Peck, I'm sorry to speak to you from
20 behind, please forgive me for that.

21 A. Thank you.

22 Q. Ms. Menotte asked you a series of questions
23 regarding the III IV case regarding the setup of this
24 Stichting and the using of a note --

25 A. Correct.

1 Q. -- through the trust in order to fund the
2 acquisition of the policy, and to avoid tax
3 implications to the foreign investors, was that
4 structure the same structure as used in this Class
5 VIII --

6 A. Yes.

7 Q. -- CLSF VIII situation?

8 A. Yes.

9 Q. For a different amount, obviously?

10 A. Yes.

11 Q. When the investors would transmit money to
12 your IOTA account, and that was probably the first
13 time I heard that, was that, in fact, your lawyer
14 trust account, your IOTA lawyer trust account that
15 these funds were transferred to?

16 A. Yes.

17 Q. What was your firm?

18 A. I'm a trustee, so at the time, I had the
19 Peck Law Firm, however I don't know when this policy
20 was bought, I would have to look back, so I'm trustee
21 services.

22 Q. Okay. How did the investors transmit the
23 money to your trust account, was it by check, or wire
24 transfer?

25 A. Wire.

1 Q. Wire transfer?

2 A. Yes.

3 Q. From the individual investors or from other
4 sources representing the individual investors, do you
5 know?

6 A. That I don't --

7 Q. You don't know?

8 A. I'm not sure of the question.

9 Q. Well, did they --

10 A. It came from a bank.

11 Q. Well, but, I mean, were the individuals
12 themselves the ones who were pushing the bottom to
13 get the transfer to you, I mean, their bank pushing
14 it to you, or was it an entity other than the named
15 individuals in the trust?

16 A. I believe it was the investors themselves
17 who authorized their particular bank to wire the
18 funds.

19 Q. Okay. And in this case, as in all the
20 others, was there a -- was there a trust document
21 that's unique and applicable just to CLSF VIII, a
22 Strichting (phonetic) document, I guess, is the word
23 we're using here?

24 A. Well, Stichting --

25 Q. Stichting?

1 A. -- is the word, and that's with the fund.

2 Q. Okay.

3 A. It's a Dutch entity created in Holland.

4 Q. Okay.

5 A. The trust is the same in every -- in all of
6 the CLSF, this is a CLSF fund, they're all the same.

7 Q. There's one master trust, or there's one --

8 A. No, no, they're individual trusts, but I
9 thought you meant was the document the same or
10 different.

11 Q. And those records you turned over to
12 Ms. Menotte?

13 A. Correct.

14 MR. O'QUINN: All right. I don't have
15 anything else for you.

16 MS. MENOTTE: But I think you might have
17 misunderstood, or maybe I misunderstood the question.
18 I think she was asking you, when the wire monies got
19 sent to your trust account, do you have a separate
20 ledger, so to speak, for CLSF VIII, Inc. that you
21 would then keep track of monies that were held in
22 your trust account?

23 THE WITNESS: I did misunderstand you, no.

24 BY MS. FRANK:

25 Q. No? There wasn't an earmarking of the

1 individual funds, they just went into the general
2 trust account?

3 A. Yes, however the management company for
4 Admin QI kept track of all of the payments that were
5 made for investor funds including ongoing premiums,
6 so they had their own ledger keeping.

7 MS. MENOTTE: You didn't at your end?

8 THE WITNESS: Correct.

9 BY MS. FRANK:

10 Q. And you don't have any of the Admin QI
11 records that you just talked about?

12 A. Admin QI is not the management company.

13 Q. Okay.

14 A. It's an arm, my arm, since this crisis
15 occurred, to help me deal with the Dutch investors,
16 and the database for all of those investors is Dutch,
17 and was kept and held by the management company that
18 was hired by QI, Quality Investments, so that is in
19 Holland, all of those records.

20 Q. What was the name of that entity?

21 A. There were several they hired, I don't
22 remember the -- I believe they had either two or
23 three different management companies.

24 Q. When you say "they," who are you referring
25 to?

1 A. Quality Investments.

2 MS. FRANK: Okay. Thank you.

3 MS. MENOTTE: Okay.

4 Yes?

5 MR. O'QUINN: I just want to follow up.

6 MS. MENOTTE: Yes, sir.

7 EXAMINATION

8 BY MR. O'QUINN:

9 Q. Admin QI was engaged in or around October,
10 2011; is that correct?

11 A. Correct.

12 Q. So what you just described only pertains to
13 tracking of funds after October 2011?

14 A. No, everyone is confused, Quality
15 Investments had their own management company which
16 would track not only -- contract with investors for
17 their investment, but also provide ledger keeping for
18 the money that was sent, as well as premiums that
19 were sent. Admin QI was an organization that I have
20 used basically as a customer service, because I don't
21 speak Dutch, and I never handled nor dealt with the
22 investors to a great extent, especially in terms of
23 contracts, and that database, which has a name,
24 actually --

25 MS. MENOTTE: ODE?

1 THE WITNESS: ODE is in Dutch and in
2 Holland.

3 BY MR. O'QUINN:

4 Q. And did Quality Investments have access to
5 your bank statements for your IOTA trust account?

6 A. Did Admin QI?

7 Q. No, did Quality Investments?

8 A. No.

9 Q. So how -- if they were charged with
10 tracking and subledgering your IOTA trust account,
11 how would they be able to do so if they could not see
12 the withdrawals you were making over time?

13 A. They were not charged with reconciling or
14 doing any accounting on my IOTA account. What we
15 did, however, is as wires came in, every wire that
16 came in that we could confirm, because we would
17 receive a confirmation statement from the bank, we
18 would e-mail -- it was electronic, we would e-mail it
19 to Quality Investments management company, and then
20 they would do whatever they needed for the record
21 keeping, contacting the investor, for instance, that
22 their money had come in, didn't come in, less had
23 come in, whatever the case might be.

24 Q. But when you wrote a check out of your IOTA
25 trust account to pay for the use of a private jet or

1 another item associated with expenditures of money
2 out of that account, would Quality Investments have
3 known about those withdrawals?

4 A. I don't know what you're referring to, so I
5 can't really address that question.

6 MR. O'QUINN: No further questions.

7 MS. FRANK: Can I ask one follow-up
8 question based on Mr. O'Quinn's?

9 EXAMINATION

10 BY MS. FRANK:

11 Q. Was CLSF VIII one of the investment
12 vehicles where the investors' money was used for a
13 single premium payment of a policy versus -- as I
14 understand it, some of them were policies where there
15 had to be recurring premium payments over time, and
16 maybe I'm wrong about my presumption, but I --

17 A. I would have to look at that particular
18 one, I don't have those records in front of me, but
19 they all had premium payments. In some cases, there
20 was internal cash value that allowed that particular
21 premium payment not to be made on a particular date
22 and it would carry, so I would have to look at the
23 data and --

24 Q. Okay.

25 A. -- tell you that.

1 Q. So you don't remember off the top of your
2 head which one this was?

3 A. No.

4 Q. Okay. Thank you.

5 MR. O'QUINN: One follow-up question.

6 EXAMINATION

7 BY MR. O'QUINN:

8 Q. The premium payments that were paid over
9 time, were those paid out of your trust account, as
10 well?

11 A. They all -- all of the monies that came
12 into my account were used for -- that came out of
13 that account, that's the account it came out of for
14 the premium payments.

15 Q. And that's your IOTA trust account?

16 A. Correct.

17 MR. O'QUINN: No further questions.

18 MS. MENOTTE: Okay. That's all -- yes,
19 sir?

20 MR. DE SCHEPPER: I've got one question --
21 Jan De Schepper.

22 EXAMINATION

23 BY MR. DE SCHEPPER:

24 Q. I've got one question on the ODE database,
25 I understand that ODE database was from QI, was

1 transferred -- is it correct to assume that the ODE
2 database was, however, in one or another way,
3 transferred to you, and you gave Admin QI the --
4 let's say the -- you hired Admin QI to work with the
5 ODE database to receive further premium money?

6 A. The ODE database was owned by Quality
7 Investments. Frank Laan had to authorize the release
8 of that database, it's in Dutch, I never received it
9 and I don't have any access to it, I couldn't read
10 it, it was provided to Admin QI so that we could
11 contact the investors, because that is where the
12 investor information, as well as contracts, were
13 held.

14 Q. Admin QI worked as an agent for you, so it
15 was handed over to your agent so to you?

16 A. QI was not my agent.

17 Q. No, no, no, Admin QI, it was handed over to
18 Admin QI as your agent?

19 A. Well, correct.

20 Q. Yes, so it was handed over indirectly to
21 you?

22 A. Correct.

23 Q. Okay. So it is handed over -- the
24 database --

25 UNIDENTIFIED: The bankruptcy --

1 COURT REPORTER: I'm sorry, I didn't hear
2 who said bankruptcy, I didn't hear who said that.

3 MS. MENOTTE: That was Mr. Lycops.

4 MR. DE SCHEPPER: No, no, I will repeat.

5 BY MR. DE SCHEPPER:

6 Q. So it was, let's say, in general handed
7 over to the bankruptcy?

8 A. I don't understand that.

9 MS. MENOTTE: As I understand it, Mr. Laan
10 had to sign paperwork allowing Admin QI to access
11 ODE, and it's for a -- it was a short period of time,
12 it expires -- I don't know the expiration date, but
13 we'll have to get Mr. Laan to agree to extend it
14 again if someone wants to access it. Admin QI is the
15 only one that's been accessing the ODE data.

16 MR. DE SCHEPPER: But the question is, all
17 the data given to Admin QI, as such, or to
18 Ms. Peck -- to Admin QI as an agent for Ms. Peck, so
19 all the data now in possession of Admin QI data from
20 the bankruptcy as a whole, or data from Admin QI,
21 that's the purpose of the question.

22 MS. MENOTTE: And I guess I don't
23 understand the question.

24 THE WITNESS: I don't either.

25 MR. ROBINSON: The question is, is the

1 database property of the bankruptcy --

2 COURT REPORTER: Wait, we've got too many
3 talking over each other.

4 MS. MENOTTE: Wait, wait, wait, wait, you
5 can only take down -- just so you guys know, she can
6 only take down what she can take down, and if you're
7 looking to have this written up, and she's missed
8 things, sobeit.

9 COURT REPORTER: Thank you.

10 MS. FRANK: Excuse me, can I ask
11 Mr. Robinson on the record to repeat his proffer or
12 question?

13 MR. ROBINSON: Yeah, I'll ask a question.

14 EXAMINATION

15 BY MR. ROBINSON:

16 Q. Is the ODE database property of CLSF VIII,
17 or is it your position that it is owned by a third --
18 or controlled by a third party?

19 A. It's not owned by CLSF VIII, it's owned, I
20 would -- I never saw the contract, but Frank Laan is
21 the only one who has the authority to release that
22 information to anyone he chooses. In this case, he
23 signed documents to release it to Admin QI so that we
24 were -- we could finally contact investors.

25 Q. Did Admin QI provide you, Ms. Peck, with

1 access to whatever information that it received by
2 way of using, whether it was called a license or
3 something else, what they got from Mr. Laan?

4 A. Your question is a bit ambiguous, do you
5 mean technologically, do I have electronic access to
6 ODE?

7 Q. Let's start with that.

8 A. No.

9 Q. Can you direct someone, either as your
10 agent or employee of CLSF VIII or any related
11 entity, to access the ODE database?

12 A. Yes.

13 MR. ROBINSON: Thank you.

14 MS. MENOTTE: Okay. I'm going to conclude
15 this meeting.

16 (Thereupon, the 341 Meeting was concluded.)
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CERTIFICATION

State of Florida:

County of Dade:

I, BONNIE TANNENBAUM, Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that the foregoing proceedings were taken before me at the date and place as stated in the caption hereto on Page 1; that the foregoing computer-aided transcription is a true record of my stenographic notes taken at said proceedings.

WITNESS my hand this 17th day of December, 2012.

BONNIE TANNENBAUM
Court Reporter and Notary Public
in and for the State of Florida at Large
Commission Number: DD 968452
Expires: June 22, 2014

Exhibit “B”

CAIRNEEL

VERKLARING VAN ECHTHEID VAN OFFICIËLE STUKKEN
ATTESTATION OF AUTHENTICITY OF OFFICIAL RECORDS

Ik, ondergetekende P.C.N. van Gelderen, verklaar dat ik in Nederland de overheidsfunctie uitoefen van griffier bij de sector strafrecht van de rechtbank Amsterdam...

I, undersigned P.C.N. van Gelderen, attest that my position with the Government of the Netherlands is legal officer within the criminal law sector of the Amsterdam court...

...en dat ik uit hoofde van mijn functie krachtens de wetten van Nederland bevoegd ben te verklaren dat de hieraan gehechte en hieronder beschreven stukken...

...and that in my position I am authorised by the laws of the Netherlands to attest that the documents attached hereto and described below...

...eensluitende kopieën zijn van officiële stukken of de originelen die...

...are true copies of original official records or originals, which...

...overeenkomstig de wetten van Nederland...

...are authorised by the law of the Netherlands...

...te boek staan bij de rechtbank Amsterdam,...

...to be recorded or filed in the Amsterdam court,...

...een overheidsinstelling of archief;

...which is a public office or agency;

en dat de inhoud van deze stukken krachtens de wetten van Nederland geboekstaafd of aangegeven dient te worden.

And set forth matters which are required by the laws of the Netherlands to be reported and recorded and filed.

De stukken als volgt omschreven: een proces-verbaal van bevindingen 'geldstromen', AH-29, in het strafrechtelijk onderzoek tegen verdachte Quality Investments BV, gedateerd 1 maart 2012, bestaande uit 33 pagina's.

Description of documents: a report of findings 'cash flows', AH-29, in the criminal investigation against the suspect Quality Investments BV [*BV = private company*], dated march 1st 2012, consisting of 33 pages.

Datum: 10 oktober 2012

Date: october 10th 2012

Handtekening:

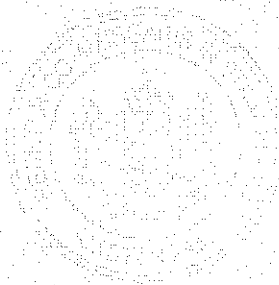
Signature:



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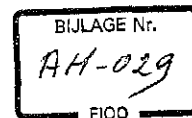
(The Hague Convention of October 5, 1961)

1. Country: The Netherlands
This public document
2. has been signed by mr. G.H. Marcus
3. acting in the capacity of investigating magistrate
4. bears the seal/stamp of rechter-commissaris (investigating magistrate)
certified
5. at Amsterdam
6. the 10th of October 2012
7. by G.H. Marcus
8. —
9. Seal/stamp



10. signature

mr. G.H. Marcus



**Proces-verbaal
van bevindingen
Geldstromen**

> Belastingdienst/FIOD

Kantoor Zwolle
Noordzeelaan 42-44, 8017 JW Zwolle

Dossiernummer
45054
Codenummer
AH-029

Verbalisanten

- | | | |
|---|--------------|--|
| 1 | Naam: | Boersma |
| | Voornamen: | Wijtse |
| | Functie: | opsporingsambtenaar Belastingdienst/FIOD |
| | Pasnummer: | 4107241 |
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| | Standplaats: | kantoor Zwolle |

Onder leiding van de officier van justitie Mr. J.T. Pouw van het Functioneel Parket te Zwolle hebben wij een strafrechtelijk onderzoek aangevangen tegen ondermeer:

Verdachte (rechtspersoon)

V-001

Naam:	Quality Investments BV
Vestigingsplaats:	Amsterdam
Adres:	Strawinskylaan 1005 toren A10
Kernactiviteit:	Aanbieden beleggingsproducten
Handelsnaam:	Quality Investments en Quality Institutional
Statutaire zetel:	Amsterdam
Nr. Handelsregister:	34132404
Plaats KvK:	Amsterdam
Oprichtingsdatum:	14-08-2000
Sofi-nummer:	8091.57.901

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1. Inleiding:

Dit proces-verbaal heeft tot doel een beschrijving te geven van de voorlopige uitkomsten van het strafrechtelijk onderzoek naar de geldstromen in relatie tot Watershed LLC. Voor de natuurlijke- en rechtspersonen die in dit proces-verbaal genoemd worden, verwijs ik naar het proces-verbaal van de bevindingen over het onderzoek naar de criminele organisatie met de code: PV 1-pv.

Uit het onderzoek komt naar voren dat de bankrekeningen van Watershed LLC, Running2 Limited en Crystal Life International FZE gebruikt zijn voor de ingaande en de uitgaande geldstromen die te maken hebben met de verkoop van de producten aan participanten. In dit proces-verbaal zal ik daarom voor de leesbaarheid Watershed LLC en de daarmee financieel 'verbonden' rechtspersonen aanduiden als Watershed LLC cum suis.

Verder zal ik, eveneens voor de leesbaarheid, de rechtspersonen die in de loop van de tijd vanuit Nederland verantwoordelijk waren voor de verkoop van de producten aan de participanten, niet afzonderlijk benoemen maar aanduiden als QI cum suis. Het gaat hierbij in ieder geval om de verdachte rechtspersonen: Quality Investments BV en Quality Investments Nederland BV.

Dit strafrechtelijk onderzoek naar de geldstromen is gericht op de periode van 1 januari 2007 tot en met 27 september 2011. Het is uitgevoerd door alle mutaties van de onderzochte bankrekeningen in spreadsheets in te voeren en deze vervolgens te analyseren. Vanwege de grote hoeveelheid zullen uiteindelijk niet al de afschriften als bijlage bij dit proces-verbaal gevoegd worden. De afschriften worden in digitale vorm en / of in fysieke vorm bewaard in het kantoor van de FIOD te Zwolle en zijn beschikbaar voor inzage. De documenten die links in de kantlijn staan vermeld, worden niet apart als bijlage bij dit proces-verbaal gevoegd. Ze zijn echter wel voor de lezer benaderbaar middels de centrale bibliotheek van bijlagen.

Het onderzoek naar de geldstromen heeft de volgende doelen:

- inzichtelijk te maken hoe de gelden van de participanten gelopen zijn over de verschillende bankrekeningen in relatie tot Watershed LLC cum suis en QI cum suis aan de ene kant en in relatie tot de verdachten aan de andere kant;
- inzicht te krijgen in de uiteindelijke bestemmingen van de door de participanten betaalde gelden.

2. Onderzoek naar de geldstromen in relatie tot Watershed LLC:

D-2441

Voor een overzicht van de geldstromen in relatie tot Watershed LLC verwijs ik naar D-2441. Dit overzicht fungeert als de rode draad bij dit proces-verbaal. Wanneer in dit proces-verbaal gesproken wordt in de ikvorm dan wordt daarmee de eerst genoemde verbalisant bedoeld.

In paragraaf 2.1. komen de ontvangsten aan de orde. Vervolgens wordt binnen deze paragraaf stil gestaan bij de wijze waarop de gelden werden beheerd en welke rekeningen zijn gebruikt om betalingen naar derden te verrichten.

In de paragrafen 2.2. tot en met 2.4. wordt stil gestaan bij de uitgaven. Naarmate de uitgaven dichterbij in relatie tot de aangeboden producten staan, worden deze eerder beschreven.

Als laatste, in paragraaf 2.4., komen de uitgaven aan de orde die hoogstwaarschijnlijk gemaakt zijn in opdracht van, dan wel ten behoeve van, de belanghebbenden van Watershed LLC. Hiermee bedoel ik de verdachten: Moens, Laan en Blom.

De bedragen die ik in dit proces-verbaal vermeld, zijn afgerond op hele bedragen en geven een benadering van een bepaalde grootte. Wanneer ik een bedrag vermeld, bedoel ik dat het vermelde bedrag ongeveer hetzelfde is als het werkelijke bedrag.

In paragraaf 3. zal ik samen vatten wat in dit proces-verbaal aan de orde is gekomen.

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2.1. De van de participanten ontvangen gelden en de direct in relatie tot de polissen gedane uitgaven:

2.1.1. De van de participanten ontvangen gelden:

D-2441

In de onderzoeksperiode is hoogstwaarschijnlijk een bedrag van USD 223.880.000 ontvangen van participanten voor de betaling van de verschillende producten die verkocht zijn door QI cum suis.

Dit bedrag wijkt enigszins af van de omzet zoals die in AH-028 naar voren komt. In AH-028 komen de bevindingen inzake het onderzoek naar de verkoopadministratie van QI cum suis aan de orde. De reden voor deze afwijking is nog niet duidelijk. Door mij is namelijk (nog) geen aansluiting gemaakt tussen de werkelijke betalingen van de participanten en de administratie van QI BV. Een deel van het verschil is echter verklaarbaar. De participanten betalen namelijk in het derde en het vierde jaar aanvullende bedragen voor de in die jaren te betalen verzekeringspremies voor de polissen in de CLSF producten. Deze zijn in het overzicht van D-2441 namelijk wel als ontvangst meegenomen en aangemerkt als ontvangen van 'participanten in CLS Fondsen' en niet in de berekening van AH-028.

D-0190

De participanten hebben gedurende de eerste 6 maanden van 2007 hun betalingen overgemaakt op een zogenaamde 'escrow' rekening bij de JP Morgan Chase Bank met het nummer: 53300061806 (a1806). Deze rekening stond op naam van: Guaranty National Title Company. Hier werd een 'escrow account' met het nummer: 07-0012 aangehouden door: 'Closed Life Settlement Fund I / Stichting derden gelden CLSF'. Het totale bedrag wat op deze rekening is ontvangen, bedraagt ongeveer: USD 7.500.000. Dit betroffen de opbrengsten voor de verkoop van de producten: CLSF I, CLSF III en CLSF IV.

D-2612

Voor een overzicht van de in dit geldstroomonderzoek betrokken bankrekeningen, de tenaamstellingen van de bankrekeningen en de afkortingen van de rekeningen zoals die in dit proces-verbaal gebruikt worden, verwijs ik naar D-2612. Voor de leesbaarheid van dit proces-verbaal en van de bijlagen worden de rekeningen aangeduid met afkortingen.

In augustus 2007 werd het saldo van de bankrekening: a1806 ten bedrage van USD 2.862.066 overgeboekt naar rekening: 7589144946 (a4946). Deze rekening werd beheerd door Deborah C. Peck.

Na 1 augustus 2007 betaalden de participanten hun aankoop op twee rekeningen die beheerd werden door Deborah C. Peck. Dit betroffen de rekeningen:

- 7589144946 met als tenaamstelling: 'Deborah C. Peck Attorney trust account';
- 7868289740 met als tenaamstelling: 'Deborah C. Peck Attorney trust account II'.

Op de rekening: a4946 is gedurende de periode van 13 augustus 2007 tot en met 5 juli 2011 ongeveer USD 116.230.000 aan betalingen van participanten ontvangen en op de rekening: 7868289740 (a9740) gedurende de periode van 28 augustus 2007 tot en met 24 februari 2011 ongeveer USD 100.000.000.

Samen met het totaalbedrag aan ontvangsten ad USD 7.500.000 op rekening: a1806 bedraagt dit USD 223.730.000. Dit verschilt met het totaal ad USD 223.880.000 wat ik eerder op deze pagina heb genoemd. Het verschil ad USD 150.000 wordt veroorzaakt doordat:

- één participant zijn inleg ad USD 248.800 heeft betaald op een rekening van Running2 Limited in Dubai;
- één participant zijn aanvullende bijdrage ad USD 34.800 voor de te betalen verzekeringspremies heeft laten boeken op rekening: a7903;
- één participant haar inleg ad USD 121.250 terug heeft gekregen van rekening: a0060;
- er sprake is van afrondingsverschillen voor een bedrag van USD 12.350.

Op de rekeningen: a4946 en a9740 kwamen bijna alle betalingen van de participanten binnen. Ze werden bijna uitsluitend gevoed door de inleg van de kopers van de producten van QI cum suis. Naast de ontvangsten van de participanten werd gedurende de

2510

onderzoekperiode ongeveer USD 60.000 ontvangen van de bank vanwege rente over de saldi van de beide rekeningen.

Uit het geldstroomonderzoek en het overzicht van D-2441 komt naar voren dat 53% van de totale ontvangst van de participanten verbonden is met de verkoop van CLS Fondsen. Het aandeel van de BGI Fondsen bedraagt: 46% en 1% komt voort uit de verkoop van LIP fondsen. Van de LIP fondsen is als product (nog) weinig bekend, behalve dat het met name in de periode van oktober 2010 tot en met februari 2011 is verkocht.

D-2613

Voor een schematisch overzicht van de ontvangsten van participanten per kalendermaand gedurende de periode van februari 2007 tot en met medio 2011 verwijs ik naar D-2613. In dit overzicht staan op de horizontale lijn de kalendermaanden in de jaren 2007 tot en met 2011 aangegeven. Op de verticale lijn staan de ontvangen bedragen per maand in USD aangegeven waarbij een schaalverdeling van USD 1.000.000 is gekozen.

Uit dit overzicht komt naar voren dat de ontvangsten een sterk wisselend beeld laten zien met pieken en dalen. De reden daarvoor is door mij (nog) niet onderzocht. Wel is er in het overzicht een trendlijn opgenomen. Dat is de dikke golvende zwarte lijn die in het overzicht van links naar rechts loopt. De berekening die ten grondslag ligt aan de trendlijn vlak de pieken af en vult de dalen op en probeert een trend in de loop van de tijd te laten zien.

Zo komt uit de trendlijn naar voren dat de ontvangsten relatief snel zijn gestegen van april 2007 tot en met januari 2008. Vervolgens is er een geringe daling in de ontvangsten te onderkennen van februari 2008 tot en met februari 2009. Daarna is er tot mei 2010 een sterke stijging van de ontvangsten waar te nemen waarna een sterke daling in de ontvangsten optreedt tot maart 2011.

D-2614

Voor een verdeling van de ontvangsten naar de verschillende productsoorten (CLSF, BGIF en LIP) over de kalendermaanden van 2007 tot en met medio 2011 verwijs ik naar D-2614. De verticale en de horizontale lijnen laten dezelfde kenmerken zien als die genoemd werden in D-2613. De vorm van de grafiek is eveneens gelijk als die op D-2613 met dien verstande dat er nu drie vlakken te onderscheiden zijn. Het donkerste vlak laat de ontvangsten in verband met de verkoop van LIP producten zien, het middelgrijze vlak die van BGIF producten en de lichtgrijze die van CLSF producten met dien verstande dat de vlakken op elkaar gestapeld zijn. De totale ontvangst per maand is gelijk aan die getoond werd in D-2613.

Op het overzicht van D-2614 is met name te zien dat gedurende de periode van april 2007 tot en met mei 2008 alleen ontvangsten binnen zijn gekomen in het kader van de verkoop van CLSF producten. Vanaf juni 2008 neemt het aandeel van de BGIF producten sterk toe waarbij in sommige maanden er meer wordt ontvangen uit de verkoop van BGIF producten dan uit CLSF producten. Vanaf april 2010 zakt de verkoop van dit product, met een oprisping in augustus 2010, in elkaar.

Hetzelfde geldt voor de ontvangsten uit de verkoop van CLSF producten. De ontvangsten uit de verkoop van LIP producten is gering en vinden alleen in de periode van oktober 2010 tot en met januari 2011 plaats.

D-2615

D-2616

De verdeling van de ontvangsten naar de verschillende productsoorten komt nog duidelijker naar voren in de grafieken op D-2615 en D-2616. In de grafiek op D-2615 is de omzet per categorie product verdeeld over periode van een halfjaar. Hierbij staan op de verticale lijn de halfjaarvakken in de jaren 2007 tot en met 2011 genoemd en staan op de horizontale lijn de ontvangen bedragen in USD per categorie vermeld met dien verstande dat de ontvangen bedragen vermeld staan in duizenden. Ook hier stellen de donkerste balken de ontvangsten uit de verkoop van de LIP producten voor. De middelgrijze stellen de ontvangsten uit de verkoop van de BGIF producten en de lichte de ontvangsten uit de verkoop van de CLSF producten voor.

Gedurende het eerste halfjaar van 2009: 'I-2009' tot en met het tweede halfjaar van 2010: 'II-2010' werd er meer ontvangen uit de verkoop van BGIF producten dan uit de verkoop van CLSF producten.

In de grafiek van D-2616 is dit nader uitgewerkt per kwartaal waarbij een overzicht wordt gegeven van het 3^e kwartaal van 2009 tot en met het 1^e kwartaal van 2011. Ook in dit overzicht komt naar voren dat vanaf het 3^e kwartaal van 2010 de ontvangsten uit de verkoop van alle soorten producten sterk daalt.

2511

De daling van de ontvangsten uit de verkoop van de producten door QI cum suis vanaf het tweede halfjaar van 2010 wordt vermoedelijk veroorzaakt door de bekendmaking van de naam van de herverzekeraar genaamd Provident Capital Indemnity Ltd (PCI) in juni 2010. Ik verwijs hiervoor naar de bevindingen inzake de tijdlijn in AH-032 en de bevindingen inzake PCI in AH-025.

2.1.2. De geldstromen binnen de voor Watershed LLC beheerde rekeningen:

2.1.2.1. Door Deborah C. Peck beheerde rekeningen in de Verenigde Staten van Amerika (VS):

Er is over de periode van 1 juli 2007 tot en met 24 februari 2011 ongeveer USD 219.000.000 op twee van de door Deborah C. Peck beheerde rekeningen ontvangen. Dit bedrag is uiteindelijk aan de op D-2441 vermelde bestemmingen uitgegeven. Deze uitgaven werden echter gedeeltelijk rechtstreeks van de rekeningen: a4946 en a9740 gedaan.

Een deel van de ontvangsten van de participanten werd doorgeboekt naar andere rekeningen die bij Deborah C. Peck in beheer waren. Het gaat, naast de hiervoor genoemde 2 rekeningen, om 18 rekeningen. Deze werden gebruikt om gelden heen en weer te boeken. Deze rekeningen noem ik in dit proces-verbaal: 'interne' rekeningen. Een deel van deze zogenaamde 'interne' rekeningen werd echter ook gebruikt om overboekingen te doen in het kader van de in het overzicht van D-2441 genoemde uitgaven.

Van de bankrekening: a4946 werd een bedrag van ongeveer USD 39.000.000 naar deze 18 'interne' rekeningen overgemaakt. Hiervan kwam een bedrag van ongeveer USD 21.500.000 weer terug naar de bankrekening: a4946.

D-2617

Dit is in D-2617 schematisch weergegeven. In dit document staat op de horizontale lijn de bedragen in USD genoemd. De bedragen die als negatief zijn aangeduid en links van de middelste as staan, stellen de bedragen voor die van bankrekening: a4946 naar de verschillende 'interne' rekeningen zijn gegaan. Deze 'interne' rekeningen staan langs de meest linkse verticale as vermeld. De bedragen die als positief zijn aangeduid en rechts van de middelste as staan, stellen de bedragen voor die van de 'interne' rekeningen naar rekening: a4946 zijn gegaan. De cijfers die bij de balken zijn vermeld, geven het totaal bedrag per rekening weer.

In het overzicht springt bijvoorbeeld rekening: a7903 eruit als rekening waar het meeste geld naar toe is gegaan en waar het meeste geld van terug gekomen is. Netto gaat het hierbij 'slechts' om een bedrag van ongeveer USD 1.000.000. Wanneer gekeken wordt naar de rekening waar netto het grootste bedrag naar toe is gegaan, springt rekening: a0052 eruit. Voor de achtergrond van deze rekening, verwijs ik naar paragraaf 2.1.3.1. van dit proces-verbaal.

D-2618

Voor wat betreft rekening: a9740 komt naar voren dat een bedrag van ongeveer USD 60.000.000 naar de verschillende 'interne' rekeningen is gegaan. Een bedrag van ongeveer USD 3.860.000 is van de verschillende 'interne' rekeningen naar de rekening: a9740 geboekt. Voor een schematisch overzicht hiervan verwijs ik naar D-2618. Dit overzicht dient op dezelfde wijze gelezen te worden als D-2617. Uit dit overzicht komt met name naar voren dat het meeste geld van rekening: a9740 naar rekening: a0029 is gegaan. Voor de achtergrond van deze rekening, verwijs ik naar paragraaf 2.2.2. van dit proces-verbaal.

D-2619

In het schematisch overzicht van D-2619 komt het totale beeld van de 'interne' boekingen van en naar de rekeningen: a4946, a9740 en a1806 naar voren. De donkergrijs gearceerde vlakken stellen de rekeningen voor waar vrijwel uitsluitend de betalingen van de participanten op binnen zijn gekomen. De lichtgrijs gearceerde vlakken stellen de zogenaamde 'interne' rekeningen voor. De richting van de pijlen, de vorm van de lijnen en de vormgeving van de bedragen geven aan hoe de gelden 'gelopen' zijn.

Een lijn van dikke punten geeft aan dat het geld heen en weer gegaan is. Een onderbroken lijn van streepjes geeft aan dat het geld naar de betreffende 'interne' rekeningen is gegaan en een ononderbroken lijn geeft aan dat het geld van de betreffende 'interne' rekening naar de donker gearceerde rekeningen gegaan is.

De schuin afgedrukte en onderstreepte bedragen geven de boekingen weer van de betreffende 'interne' rekeningen naar de donker gearceerde rekeningen. De tussen haakjes staande bedragen geven de boekingen weer van de donker gearceerde rekeningen naar de 'interne' rekeningen.

Rekening houdend met het hierboven genoemde, komt uit D-2619 bijvoorbeeld het volgende naar voren:

- van rekening: a4946 gaat USD	650.000	naar rekening: a0003;
- van rekening: a0003 gaat USD	519.000	naar rekening: a4946;
- van rekening: a9740 gaat USD	900.000	naar rekening: a0003;
- van rekening: a0086 gaat USD	3.037.000	naar rekening: a4946.

In totaal is er gedurende de onderzoeksperiode een bedrag van USD 123.000.000 heen en weer geboekt tussen de rekeningen waar vrijwel uitsluitend de betalingen van de participanten op binnen kwamen en de zogenaamde 'interne' rekeningen.

Daarnaast werden er bedragen binnen de 'interne' rekeningen heen en weer geboekt.

Schematisch is dit weergegeven in D-2620. In dit overzicht komt naar voren hoe de gelden per saldo naar de verschillende 'interne' rekeningen zijn geboekt. De richting van de bedragen is te zien aan de richting van de pijlpunten. De vorm van de lijnen is verschillend van elkaar om het overzicht beter leesbaar te maken.

Zo komt bijvoorbeeld uit het overzicht naar voren dat er van de rekening: a0029 voor in totaal boekingen zijn gedaan naar de volgende rekeningen:

- voor USD	2.900.000	naar rekening: a0037;
- voor USD	10.000.000	naar rekening: a9403;
- voor USD	345.000	naar rekening: a0011;
- en voor USD	305.000	naar rekening: a7903.

In totaal gaat het in overzicht D-2620 om USD 27.760.000 aan 'interne' boekingen.

De gelden gingen deels heen en weer over de verschillende rekeningen, deels werden er uitgaven mee gedaan zoals die in D-2441 zijn opgenomen. Sommige 'interne' rekeningen zijn alleen gebruikt voor het heen en weer boeken van bedragen. In het vervolg van dit proces-verbaal kom ik op het gebruik van enkele 'interne' rekeningen nog terug.

Het totaal aan de 'interne' in D-2619 en D-2620 genoemde boekingen bedraagt ongeveer USD 151.000.000. Dit bedraagt ongeveer 67% van het van de participanten ontvangen bedrag ad USD 223.880.000.

Onduidelijk is waarom deze 'interne' boekingen in deze omvang hebben plaats gevonden en waarom de betalingen voor het doen van de werkelijke uitgaven niet gedaan zijn van af de twee rekeningen die vrijwel uitsluitend zijn gevoed door de betalingen van de participanten. Vermoedelijk is deze werkwijze toegepast omdat Deborah C. Peck een vergoeding kreeg die deels gebaseerd was op de omvang van de overgeboekte bedragen gedurende een bepaalde periode.

2.1.2.2. Door anderen beheerde rekeningen op Cyprus en in de Verenigde Arabische Emiraten (VAE):

De betalingsorganisatie van Watershed LLC cum suis beperkte zich niet tot de rekeningen die in de VS beheerd werden door Deborah C. Peck. Een deel van het door de participanten overgemaakte bedrag werd doorgeboekt naar rekeningen van Watershed LLC, Running2 Limited, Crystal Life International FZE, Romano SA en Zilwood SA. Voor de relatie van de verdachten met genoemde rechtspersonen verwijs ik nogmaals naar het proces-verbaal inzake de criminele organisatie: PV 1-pv.

Schematisch is dit weergegeven in de overzichten van D-2621 en D-2622.

In D-2621 wordt de geldstroom van de rekeningen: a4946 en a9740 naar de rekeningen

2513

op Cyprus en in de VAE weergegeven. Ook voor dit overzicht geldt dat de richting van de bedragen is te zien aan de richting van de pijlpunten. De vorm van de lijnen is verschillend van elkaar ten behoeve van de leesbaarheid van het overzicht. Gedurende de onderzoeksperiode is ongeveer USD 12.716.000 naar de rekeningen op Cyprus en in de VAE geboekt.

In D-2622 wordt de geldstroom van de 'interne' rekeningen naar de rekeningen op Cyprus en in de VAE getoond. Dit overzicht dient op dezelfde wijze gelezen te worden als D-2621. Gedurende de onderzoeksperiode is van de 'interne' rekeningen ongeveer USD 18.054.000 naar de rekeningen op Cyprus en in de VAE geboekt. Verder komt uit het overzicht naar voren dat er van de rekening ten name van Running2 Limited: v1319 een bedrag van USD 2.000.000 terug geboekt is naar de 'interne' rekening: a0037. Op deze overboeking kom ik terug in paragraaf: 2.2.2.4. van dit proces-verbaal.

In totaal is er een bedrag van ongeveer USD 30.700.000 naar de rekeningen van Watershed cum suis op Cyprus en in de VAE overgemaakt. Dit bedraagt ongeveer 13% van USD 223.880.000, het van de participanten ontvangen bedrag. Van de rekeningen van Watershed LLC cum suis op Cyprus en in de VAE zijn diverse betalingen gedaan die gerubriceerd zijn in het overzicht van D-2441. Verder zijn er nog enkele 'interne' boekingen gedaan binnen de rekeningen op Cyprus en in de VAE. Voor een schematisch overzicht van deze boekingen, verwijs ik naar D-2623. Daaruit komt naar voren dat in de onderzoeksperiode een bedrag van ongeveer USD 317.000 en euro 766.000 naar de verschillende rekeningen van Watershed LLC cum suis op Cyprus en in de VAE is gegaan.

Samen met de 'interne' boekingen in de VS is 80% van het van de participanten ontvangen bedrag doorgeboekt naar 'interne' rekeningen in de VS, op Cyprus en in de VAE. Onduidelijk is waarom deze 'interne' boekingen in deze omvang hebben plaats gevonden en waarom de betalingen voor het doen van de uiteindelijk uitgaven niet gedaan zijn van af de twee rekeningen die bijna uitsluitend gevoed zijn door de betalingen van de participanten.

2.1.3. De direct in relatie tot de polissen gedane uitgaven:

2.1.3.1. De inkoop van polissen:

Een belangrijk onderdeel van de verkochte producten was de overlijdensrisicoverzekeringspolis die tot uitkering kwam bij het overlijden van de verzekerde. Deze polissen werden door Watershed LLC aangekocht. Er is gedurende de onderzoeksperiode voor ruim USD 50.000.000 aan polissen betaald. Ik verwijs hiervoor naar D-2441. Hierbij valt op te merken dat het grootste deel van de aankopen: 77%, gedaan is bij dezelfde aanbieder. Dit betrof in 2008 Reserve Holdings LLC en vanaf 2009 Parcside Equity LLC. Van beide rechtspersonen is een persoon genaamd P.E. Lian gemachtigde. Voor meer informatie over Parcside Equity LLC en P.E. Lian verwijs ik respectievelijk naar de paragrafen 3.3.4.1. en 3.3.4.2. van het proces-verbaal over de criminele organisatie: PV 1-pv.

D-2624 Voor een verdeling van de inkopen over de jaren verwijs ik naar D-2624. Op de horizontale lijn staan de jaren vermeld en op de verticale lijn de bedragen in duizenden USD. Verder is er een onderscheid gemaakt in aankoop: 'ink pol rp': inkoop polissen van Reserve Holdings LLC dan wel Parcside Equity LLC en: 'ink pol': inkoop polissen van anderen. Uit het overzicht komt naar voren dat in 2008 het grootste bedrag is uitbetaald voor de aankoop van polissen. Dit bedroeg in totaal ongeveer USD 19.400.000.

D-2625 Uit het overzicht: D-2625 komt naar voren hoe de verdeling van de inkoop is geweest over de producten CLSF en BGIF. Op de horizontale lijn staan de bedragen vermeld in duizenden USD. Op de verticale as staan de jaren vermeld en de balken die de verschillende producten aanduiden. Zo komt uit het overzicht naar voren dat in 2008 met name polissen in het kader van de CLSF producten zijn gekocht. Het totaal aan uitgaven bedraagt ongeveer: USD 18.200.000.

D-2626

Verder komt uit het overzicht van D-2626 naar voren welke rekeningen gebruikt zijn bij de betalingen voor de gekochte polissen. In dit overzicht staan op de horizontale as de bedragen vermeld in duizenden USD. Op de verticale as staan de gebruikte rekeningen van Watershed LLC vermeld. De verschillende balken in het overzicht staan voor de verschillende jaren.

Uit het overzicht komt naar voren dat gedurende de eerste jaren: 2007 tot en met 2009 de rekeningen: a 4946 en a9740 zijn gebruikt om de ingekochte polissen te betalen. In totaal is er gedurende deze periode ongeveer USD 28.900.000 via deze rekeningen betaald. Deze rekeningen betreffen de twee rekeningen die vrijwel uitsluitend gevoed zijn met de betalingen van de participanten.

Daarnaast komt uit het overzicht van D-2626 naar voren dat vanaf 2010 met name de rekening: a0052 is gebruikt voor het betalen van de gekochte polissen van Parcside Equity LLC. De rekening: a0052 staat op naam van Parcside LLC.

D-2307

Uit het strafrechtelijk onderzoek komt naar voren dat Deborah C. Peck rechthebbende is van Parcside LLC. Al de ontvangsten van rekening: a0052 kwamen echter van de andere rekeningen van Watershed LLC. De betalingen die met rekening: a0052 werden gedaan, waren niet afwijkend van de betalingen die met andere rekeningen daarvoor dan wel tijdens het gebruik van rekening: a0052 zijn gedaan. Onduidelijk is waarom vanaf 2010 een rekening op naam van Parcside LLC met als rechthebbende Deborah C. Peck gebruikt is voor het doen van uitgaven van Watershed LLC cum suis. Uitgaven die in de periode daarvoor ook al vanaf andere rekeningen werden gedaan.

De reden voor het grotendeels inkopen van de polissen bij Reserve Holdings LLC / Parcside Equity LLC ligt waarschijnlijk in de overboekingen die deze leverancier gedaan heeft naar enige privé-rekeningen van de verdachte Moens. Zo heeft de verdachte Moens in de onderzoeksperiode de volgende bedragen ontvangen:

- op 17 februari 2009 een bedrag van USD 10.000 op rekening: t7501 met als vermelding: 'consult';
- op 25 februari 2009 een bedrag van USD 90.000 op rekening: t7501 eveneens met als vermelding: 'consult';
- op 25 januari 2010 een bedrag van USD 450.000 op rekening: a9408;
- op 19 februari 2010 een bedrag van USD 170.000 op rekening: a9408 met als vermelding: 'full final payment of fees forsinder case';
- op 17 maart 2010 een bedrag van USD 150.000 op rekening: a9408 met als vermelding: 'full payment of fees for jenogluck axa case'.

In totaal heeft de verdachte Moens op twee privé-rekeningen gedurende de onderzoeksperiode waarschijnlijk USD 870.000 ontvangen van Parcside Equity LLC.

Voor wat betreft de verdere verwevenheid in de onderlinge relaties verwijs ik naar paragraaf 2.4.2.2. van dit proces-verbaal waarin onder andere naar voren komt dat dhr. Lian samen met de echtgenoot van Deborah C. Peck directeur is van een bedrijf waar de verdachten Moens en Laan geld in geïnvesteerd hebben.

2.1.3.2. De premies voor de polissen:

Naast de aankoop van de polissen dienden deze ook in stand te worden gehouden door het betalen van premies aan de verzekeringsmaatschappijen. Er is gedurende de onderzoeksperiode ruim USD 30.000.000 betaald aan premies.

Ik verwijs hiervoor naar D-2441.

D-2627

Het overzicht op D-2627 geeft de verdeling van de premies over de verschillende producten weer. Op de horizontale as staan de bedragen in duizenden USD en op de verticale as de jaren vermeld. De verschillende balken geven de betaalde premies voor de betreffende producten weer. Uit het overzicht komt naar voren dat met name in 2010 het grootste bedrag aan verzekeringspremies is betaald. Verder komt naar voren dat dit vanaf 2007 sterk oploopt. Alleen al in 2010 is er bijna USD 13.000.000 aan premies betaald. Het grootste aandeel van de premies komt voor rekening van de CLSF producten.

D-2628

Uit het overzicht van D-2628 komt naar voren van welke bankrekeningen de premies zijn betaald. Uit dit overzicht komt naar voren dat het grootste deel van de betaalde premies

betaald is van rekening: a4946. Dit bedraagt in totaal ongeveer USD 18.400.000. Daarnaast is een aanzienlijk deel van de betaalde premies betaald vanaf de rekening: a7903. Uit de overzichten op D-2619 en D-2620 komt naar voren dat deze rekening is gevoed door de rekeningen waar de participanten vrijwel uitsluitend hun betalingen op overmaakten en door enkele 'interne' rekeningen.

2.1.3.3. De Certificates of deposit:

Door Watershed LLC is van augustus 2008 tot en met oktober 2010 zogenaamde 'certificates of deposit' (CD's) gekocht. Dit zijn spaarcertificaten in de VS met een vaste looptijd. Er is door Watershed LLC voor ongeveer USD 19.551.000 aan CD's gekocht. De aankoop van deze CD's is gefinancierd met de inleg van de participanten.

Daarnaast is door Watershed LLC in de periode van november 2008 tot en met februari 2011 voor ongeveer USD 19.803.000 aan CD's verkocht. Per saldo is er ongeveer USD 250.000 meer ontvangen dan er is uitgegeven aan CD's. Waarschijnlijk is dit surplus afkomstig van de rente die met de CD's verbonden is. Gemiddeld bedraagt de rente bij het genoemde bedrag ad USD 250.000 een percentage van 1,5%. Normaliter werd er meer vergoed. Bij een rentevergoeding van bijvoorbeeld 4% zou de opbrengst ongeveer USD 700.000 moeten bedragen. Onduidelijk is of er nog CD's open staan dan wel of er betalingen op andere rekeningen binnen zijn gekomen dan die bekend en onderzocht zijn.

D-2629

In het overzicht van D-2629 staat schematisch het verloop van de koop en de verkoop van de CD's per maand opgenomen. Op de horizontale as staan de maanden in de jaren 2008 tot en met 2011 vermeld. Op de verticale as staan de bedragen in USD vermeld: negatief voor de investeringen in CD's en positief voor de uitkeringen van CD's. De zwarte lijn onder de horizontale as geeft de investeringen in CD's in de loop van de tijd weer en de middelgrijze lijn boven de horizontale as geeft de verkoop en de vrijval van de CD's weer.

Het overzicht van D-2629 geeft weer dat er in eerste instantie meer CD's zijn aangekocht dan er zijn verkocht. Met name in de maanden augustus 2008 tot en met januari 2009 zijn er CD's gekocht. Verder zijn er pieken in de aankoop te zien in de maanden: april 2009, september en oktober 2009, december 2009, april 2010 en augustus 2010. De verkoop van de CD's heeft met name in december 2008, november 2009, juli 2010 en vanaf november 2010 tot en met februari 2011 plaats gevonden.

D-2630

Dit komt met name naar voren in het overzicht van D-2630. In dit overzicht staat de stand van de waarde van de CD's in de loop van de tijd centraal. Het gaat hierbij om het saldo aan CD's per een bepaalde maand.

Ook hier is te zien dat de stand van de waarde van de CD's in de loop van de tijd fluctueerde. Er was een stijging in de periode van augustus 2008 tot januari 2009, daarna een kleine daling tot april 2009 waarna de stand weer steeg en vervolgens weer daalde tot september 2009. Uiteindelijk bereikte de stand van de CD's zijn piek in september 2010. De grootste daling vond in januari 2011 plaats. Toen werden er voor ongeveer USD 11.100.000 aan CD's verkocht en was uiteindelijk het saldo aan CD's nihil geworden.

D-2631

In het in D-2631 opgenomen overzicht komt naar voren welke bankrekeningen gebruikt zijn bij de aankoop en de verkoop van de CD's. De pijlen van de lijnen geven de geldstroom weer: van de rekeningen links van het overzicht zijn de CD's aangekocht. De opbrengsten van de CD's zijn terecht gekomen op de rekeningen aan de rechterkant van het overzicht.

De verkoop van de CD's heeft met name in de periode van november 2010 tot en met februari 2011 plaatsgevonden. Er is gedurende deze periode voor USD 13.700.000 aan CD's verkocht.

D-2611

Voor een schematisch overzicht van wat er vervolgens met deze opbrengst van de verkoop van de CD's is gebeurd, verwijs ik naar D-2611. Uit dit overzicht komt naar voren dat één deel van de ontvangst door middel van verschillende boekingen voor USD 2.340.000 is doorgeboekt naar rekeningen van Watershed LLC in de VS.

Deze rekeningen zijn in beheer van Deborah C. Peck.

Verder laat het overzicht op D-2611 zien dat het verschil ad USD 11.363.000 door middel van diverse boekingen bij de volgende doelen terecht is gekomen:

- naar rekening: v1319 van Running2 Limited voor in totaal: USD 9.200.000;
- naar rekening: 1314 van BGIF BV voor in totaal: USD 1.481.000;
- naar betalingen voor gezamenlijke rekening van de verdachten Laan en Moens: USD 535.000;
- naar QI BvbA: USD 147.000.

Vervolgens is op het overzicht op D-2611 te zien dat het geld wat naar Running2 Limited is geboekt, op de volgende wijze is besteed:

- voor betalingen voor en doorboekingen naar rekeningen van de eigen organisatie USD 2.700.000
- naar rekening: 1314 van BGIF BV : USD 2.320.000
- naar een (nog) niet opgevraagde rekening in de VS met als vermelding voor te betalen verzekeringspremies: USD 1.580.000
- naar betalingen voor gezamenlijke rekening van de verdachten Laan en Moens: USD 1.896.000
- naar uitgaven ten behoeve van de verdachte Moens: USD 685.000

Voor wat betreft de betalingen voor gezamenlijke rekening van de verdachten Laan en Moens en voor de uitgaven ten behoeve van de verdachte Moens verwijs ik naar paragraaf 2.4 van dit proces-verbaal. Het gaat hierbij om gelden wat ten behoeve van de verdachten is besteed.

In totaal is er uit de opbrengsten van de verkoop van de CD's ongeveer een bedrag van USD 3.116.000 uitgegeven ten behoeve van de verdachten Moens en / of Laan. Dit bedraagt ongeveer 22% van de totale ontvangst van de verkoop van CD's in de periode van november 2010 tot en met februari 2011.

D-1247

In een telefoongesprek de dato 20 januari 2011 tussen de verdachten Moens en Laan zei de verdachte Moens dat hij de CD's had verkocht om geld vrij te maken voor de betaling van de boten. Uit het onderzoek kwam naar voren dat het hierbij gaat om de bouw van drie zeewaardige zeilcatamarans. Ik verwijs hiervoor naar paragraaf 2.4.2.1, van dit proces-verbaal.

Vanuit de opbrengsten van de CD's is USD 2.431.000 uitgegeven voor gezamenlijke rekening van de verdachten Laan en Moens. Hiervan werd een bedrag van in totaal USD 1.316.000 betaald voor de bouw van de bestelde zeilcatamarans.

Onduidelijk is (nog) waarom waardepapieren die gemakkelijk verkoopbaar waren en een vaste opbrengst genereerden, werden verkocht en waarvan vervolgens een deel van de opbrengst werd gebruikt om te investeren in zeewaardige zeilcatamarans. Dit type vermogensobject is aanzienlijk lastiger te verkopen en geeft geen vaste opbrengst zoals een waardepapier als een 'certificate of deposit'.

Het geld wat uiteindelijk naar de rekening van BGIF BV is geboekt, is gebruikt om rente te betalen aan de participanten. In totaal gaat het hierbij om ongeveer USD 3.800.000. Dit bedraagt ongeveer 28% van de totale ontvangst van de verkoop van CD's in de periode van november 2010 tot en met februari 2011.

2.2. De betalingen aan Provident Capital Indemnity Ltd en de betalingen aan participanten in verband met het vrijvallen van producten:

2.2.1. De betalingen aan Provident Capital Indemnity Ltd (PCI):

Een belangrijk onderdeel van de producten die door de verdachte QI cum suis werden verkocht, was de contraverzekering die door PCI door middel van een zogenaamde 'bond' werd afgegeven. Door middel van deze 'bonds' van PCI werd aan de participant voorgehouden dat een product na een bepaalde termijn gegarandeerd tot uitbetaling zou komen. PCI vroeg een vergoeding per 'bond' van Watershed LLC.

Deze vergoeding werd gedurende de periode van 18 juni 2007 tot en met 12 oktober 2010 betaald op rekening: 3643824 ten name van Desarrollos Comerciales Ronim SA (Desarrollos) te San José in Costa Rica. Desarrollos is als management en administratiekantoor verbonden met PCI. Ik verwijs hiervoor naar AH-025 waarin een beschrijving van PCI wordt gegeven.

Daarnaast werd de vergoeding voor de afgifte van de 'bonds' van 24 februari 2009 tot en met 10 juli 2009 betaald op rekening: 3953842410717 ten name van Citibank Global Markets Inc. te Miami.

D-2441 In totaal is er door Watershed LLC USD 17.535.000 aan PCI ter vergoeding van de aangegane contraverzekeringen betaald. Het gaat hierbij om ongeveer 8% van het totaal van de participanten ontvangen bedrag.

D-2632 Voor een overzicht van het aandeel van de verschillende ontvangende rekeningen in de door Watershed LLC aan PCI betaalde premies, verwijs ik naar D-2632. In het overzicht staat per taartpunt aangegeven welk totaalbedrag in duizenden USD naar een bepaalde rekening is gegaan. Zo is er USD 1.588.000 betaald op de rekening met het nummer 3953842410717. Onduidelijk is echter waarom gedurende een korte periode betalingen naar de genoemde rekening van Citibank Global Markets Inc. te Miami zijn gegaan.

D-2633 Er zijn echter niet alleen betalingen door Watershed LLC aan PCI gedaan voor de verkregen 'bonds'. Voor een overzicht van de specifieke soorten uitgaven verwijs ik naar D-2633. In dit overzicht staan op de horizontale as de betaalde totaalbedragen in duizenden USD. Op de verticale as staan de verschillende soorten uitgaven door Watershed LLC aan PCI vermeld.

Hierbij heb ik in de uitgaven voor de 'bonds' van PCI onderscheid gemaakt tussen uitgaven ter betaling van 'bonds' voor CLSF's: 'cls', voor BGI's: 'bgi' en waar niet bekend van is voor welk soort product de uitgaven zijn gedaan: 'Cls of bgi'.

Verder heb ik onderscheid gemaakt in de uitgaven die niet bedoeld waren voor de verkrijging van 'bonds'. Namelijk verschil in de uitgaven in het kader van de Mittman polis: 'mittman', de diverse uitgaven van PCI: 'divers uitg' en de in januari 2011 vanuit een rekening van Running2 Limited verstrekte lening aan PCI: 'lening'. De diverse balken geven de verschillende jaren weer.

Zo is er bijvoorbeeld in 2009 een bedrag van USD 400.000 richting PCI gegaan in het kader van: 'mittman'. Voor een nadere uitleg van deze uitgave, verwijs ik naar AH-019 waarin de bevindingen inzake de uitbetaling van de Mittman polis beschreven staan.

D-2634 Voor een overzicht van de door Watershed LLC cum suis gebruikte bankrekeningen, verwijs ik naar D-2634. In dit overzicht staan op de horizontale as de totaalbedragen in duizenden USD en op de verticale as de verschillende bankrekeningen waarbij de balken de verschillende jaren aangeven.

Zo komt in het overzicht van D-2634 naar voren dat in 2007 met name betalingen aan PCI zijn verricht van rekening: a1806 en van rekening: a4946. Dat in 2008 met name rekening: a4946 en rekening: a9740 zijn gebruikt en dat vanaf 2009 alleen rekening: a0037 nog werd gebruikt voor betalingen aan dan wel in relatie tot PCI.

De betalingen die vanaf de rekening: v1319 van Running2 Limited zijn gedaan, betreffen een lening aan PCI ten bedrage van USD 800.000. Dit bedrag is in twee betalingen van USD 400.000 in januari 2011 op de rekening van Desarrollos overgemaakt. Dit heeft

plaats gevonden vlak voor de aanhouding van dhr. Vargas, directeur / aandeelhouder van PCI. Desarroles is als management en administratiekantoor verbonden met PCI. Ik verwijs hiervoor naar het PV 1-pv inzake de criminele organisatie en naar AH-025 waar de bevindingen inzake PCI in beschreven worden.

De rekening: a0037 werd vanaf september 2009 gebruikt voor het doen van betalingen aan PCI in plaats van rechtstreeks naar de in D-2632 genoemde rekeningen. De te-naamstelling van rekening: a0037 luidt: 'Premium Reinsurance Reserve Account'. Mede gezien AH-021 waarin de bevindingen inzake de uitkering van de Hamilton polis staat beschreven en D-1037 werd de rekening vermoedelijk gebruikt voor betalingen binnen het kader van de relatie met PCI.

D-1037

In D-1037 komt naar voren dat op 10 februari 2010 om 14.39 uur Deborah C. Peck een e-mail stuurde aan Minor Vargas van PCI (met een kopie aan de verdachte Moens op zijn privé e-mailadres) met als bijlage een concept DMD joint venture agreement. Deze overeenkomst tussen Dennis Moens, Minor Vargas en Deborah C. Peck behelst de start van een joint venture (samenwerkingsverband) om de 'RESERVE' attorney escrow account bij Deborah C. Peck te beheren. Deze DMD joint venture was bedoeld om toezicht te houden op de bankrekening waarop de gelden voor de contraverzekering ten behoeve van de begunstigten van de CLSF en BGIF trusten werden 'gereserveerd'. In de overeenkomst werd ook afgesproken dat Deborah C. Peck voor een verzekering van het vermogen op deze bankrekening zou zorgdragen. Alle partijen deden evenredig (1/3) in de netto opbrengst. De rekening waar het in deze email over ging betrof hoogstwaarschijnlijk de rekening: a0037.

D-2635

Voor een overzicht van de voeding van de rekening: a0037 verwijs ik naar D-2635. In totaal is er in de periode van 31 juli 2009 tot en met 4 april 2011 USD 23.314.000 op de rekening: a0037 geboekt. D-2635 geeft een overzicht van de bronnen van deze ontvangsten. Op de horizontale as staan de bedragen vermeld in duizenden in USD en op de verticale as de verschillende bankrekeningen. De balken geven de bankrekeningen weer waarbij de bedragen in cijfers aangeven welk totaalbedrag van de betreffende bankrekeningen naar de rekening: a0037 zijn geboekt. Zo is er bijvoorbeeld van rekening: a0086 een bedrag van USD 2.101.000 naar rekening: a0037 gegaan.

D-2636

Voor een overzicht van de uitgaven van de rekening: a0037, verwijs ik naar D-2636. De verschillende taartpunten geven de verschillende posten van de uitgaven weer en de cijfers bij de taartpunten vermelden de uitgegeven totaalbedragen in duizenden USD. De legenda en de taartpunten dienen kloksgewijs gelezen te worden.

Het taartpuntje met het kenmerk 'D.C. Peck' begint bovenaan en bedraagt USD 285.000. Vervolgens komt de punt: 'PCI bonds' en deze bedraagt USD 5.350.000.

Zo is er bijvoorbeeld voor juridische claims op PCI in de VS een bedrag van ongeveer USD 6.140.000 van de rekening: a0037 betaald en is er aan uitkeringen van producten aan participanten een bedrag van USD 6.000.000 van rekening: a0037 betaald.

Het gaat hierbij om de uitkeringen voor de zogenaamde Hamilton polis en de Duhl polis. Op deze uitkeringen kom ik in de volgende paragraaf terug.

2.2.2. De betalingen aan participanten in verband met het vrijvallen van producten:

Zoals ik hiervoor al heb opgemerkt, was de contraverzekering van PCI een belangrijk onderdeel van de te verkopen producten van de verdachte QI cum suis. Deze contraverzekering diende ervoor te zorgen dat als een verzekerde persoon aan het einde van de looptijd van een fonds nog in leven was, er toch een uitkering aan de participanten plaats kon vinden. PCI nam het vervolgens op zich om tegen een bepaalde vergoeding de uitkering te betalen tegen verkrijging van de nog niet vrijgevallen overlijdensrisicoverzekeringspolis.

Gedurende de onderzoeksperiode komt naar voren dat in ieder geval voor een viertal producten de uitkering aan participanten heeft plaatsgevonden. Uit het geldstroomonderzoek is naar voren gekomen dat niet PCI deze uitkeringen heeft gedaan, maar dat deze gedaan zijn van de rekeningen van Watershed LLC die in beheer van Deborah C. Peck

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stonden. Het geld wat nodig was voor deze uitkeringen was uiteindelijk afkomstig van de rekeningen waar de participanten hun inleg op betaalden. De uitkeringen zijn in wezen gedaan met gelden die de participanten zelf hadden ingelegd. Dit is een belangrijk kenmerk voor de zogenaamde 'ponzifraude'.

D-2441 In totaal is ongeveer USD 16.514.000 uitgekeerd aan participanten. Dit bedraagt ongeveer 7% van het totaal door participanten betaalde bedrag.

D-2444 In deze paragraaf zal ik de geldstroom in relatie tot deze uitkeringen beschrijven. Voor een schematisch overzicht van de uitkeringen verwijs ik naar D-2444. In het overzicht staan met pijlen de geldstromen vermeld vanaf de rekeningen waar de participanten hun betalingen op hebben gedaan tot de uiteindelijke uitkeringen. Voor zover de uitkeringen eveneens beschreven worden in andere ambtshandelingen verwijs ik naar deze en zal ik alleen de geldstromen beschrijven. De betreffende ambtshandelingen voeg ik niet als bijlagen bij dit proces-verbaal.

Drie rekeningen zijn met name gebruikt bij het betalen van de uitkeringen. Eén rekening namelijk de a0037 is in paragraaf 2.2.1. aan de orde gekomen. Voor de schematische overzichten van deze rekening verwijs ik naar de bij die paragraaf gevoegde bijlagen: D-2635 en D-2636. Van de rekening: a0037 is USD 6.000.000 aan uitkeringen betaald.

De tweede rekening die bij het doen van uitkeringen gebruikt is, betreft de rekening: a9403. Deze rekening komt aan de orde in paragraaf: 2.2.2.3. waar de geldstroom met betrekking tot de uitkering van de Mittman polis wordt beschreven.

Tenslotte is met name de rekening: a0029 gebruikt bij de totstandkoming van een tweetal uitkeringen aan de participanten. Boeking op en van deze rekening gingen met name vooraf aan de uitkering van de Hamilton polis en de Mittman polis.

De rekening: a0029 heeft als tenaamstelling: 'Deborah C Peck, BGI 8' en werd gebruikt van 5 mei 2009 tot en met 28 januari 2010. Op dat moment, 28 januari 2010, werd een bedrag van USD 10.000.000 overgeboekt naar rekening: a9403 voor het doen van de uitkering in relatie tot de LSF I: de Mittman polis.

Hier kom ik in de volgende paragraaf: 2.2.2.3. op terug.

D-2638 Het overzicht op D-2638 laat zien hoe de rekening: a0029 gedurende de periode van 5 mei 2009 tot en met 28 januari 2010 is gevoed. Op de rekening is gedurende deze periode in totaal USD 18.972.000 ontvangen.

Het overzicht van D-2638 laat zien dat een klein deel van de ontvangsten: USD 150.000 van een onbekende bron komt. Het restant is bekend: een bedrag van USD 1.774.000 is afkomstig van rekening: a4946 en een bedrag van USD 17.048.000 komt van rekening: a9740.

Op beide genoemde rekeningen werden de betalingen van participanten ontvangen.

D-2639 Het overzicht van D-2639 geeft weer hoe de verrichte uitgaven van rekening: a0029 verdeeld zijn. Het overzicht geeft door middel van zogenaamde taartpunten weer welke bedragen in duizenden USD aan welk zaken zijn besteed.

Het overzicht dient met de klok mee gelezen te worden waarbij een bedrag van USD 880.000 uitgegeven is voor de aankoop van CD's, een bedrag van USD 933.000 ten behoeve van het instandhouden van de organisatie tot uiteindelijk een bedrag van USD 1.576.000 voor de aankoop van duurzame activa ten behoeve van de verdachten Laan en / of Moens.

Voor wat betreft de betalingen voor gezamenlijke rekening van de verdachten Laan en / of Moens, verwijs ik naar paragraaf 2.4 van dit proces-verbaal. Het gaat hierbij om gelden die ten behoeve van de verdachten Moens en / of Laan is besteed.

Uit het overzicht op D-2639 komt verder naar voren dat er in totaal USD 10.000.000 is overgeboekt naar rekening: a9403 voor de uitbetaling van de Mittman polis en een bedrag van USD 2.800.000 naar rekening: a0037 voor de uitbetaling van de Hamilton polis.

D-2640 Het overzicht op D-2640 geeft vervolgens het saldooverloop van rekening: a0029 weer over de periode dat de rekening actief was. Deze periode staat op de horizontale as van het overzicht vermeld.

Uit het overzicht komt naar voren dat de stand van rekening: a0029 van 4 mei 2009 tot en met 15 september 2009 geleidelijk opliep tot een bedrag van USD 6.011.192. Vervolgens werd op 15 september het eerder genoemde bedrag ad USD 2.800.000 overge-

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boekt naar rekening: a0037 en daalde de stand van de rekening tot een stand van USD 300.282 op 6 oktober 2009.

Vervolgens steeg de stand van de rekening weer tot een bedrag van USD 10.500.039 op 26 januari 2010. Op 28 januari 2010 was de stand van de rekening USD 38,70 na een overboeking van USD 500.000 op 27 januari 2010 naar rekening: a4946 en een overboeking van USD 10.000.000 op 28 januari 2010 naar rekening: a9403. Na 28 januari 2010 zijn er geen boekingen meer op of van rekening: a0029 gedaan.

De stijging van de stand van de rekening gedurende de periode van 6 oktober 2009 tot 27 januari 2010 is bijna volledig gefinancierd door overboekingen van rekening: a9740. Van deze rekening kwam gedurende deze periode in totaal een bedrag van USD 9.327.236.

Dit bedrag is tot stand gekomen door middel van de volgende overboekingen: 15 bedragen van USD 500.000, één bedrag van USD 1.000.000, één bedrag van USD 250.000 en twee bedragen van USD 288.618. Tenslotte kwam het laatste bedrag ad USD 863.790 van rekening: a4946.

Beide rekeningen werden vrijwel uitsluitend gevoed met betalingen van participanten.

2.2.2.1. Uitkering in relatie tot CLSF VI: Rifkin polis:

In AH-007 staat de uitkering in relatie tot het product CLSF VI beschreven. Het gaat hierbij om een fonds waar volgens de verkoopadministratie van QI BV slechts twee participanten op hebben ingeschreven en die hun inleg in 2007 terug hebben gekregen. Beide bedragen zijn afgeschreven van de rekening: a4946. Op 14 november 2007 is een bedrag van USD 349.125,00 afgeschreven ten gunste van Waltmans en op 3 december 2007 een bedrag van USD 348.333,00 ten gunste van Panen.

Verder werd er van de rekening: a4946 op 28 november 2007 een bedrag van USD 124.770,00 afgeschreven ten gunste van Schaap. Ondanks dat Schaap niet geregistreerd stond als participant in CLSF VI, is deze betaling vermoedelijk toch gebeurd in relatie tot een participatie van Schaap in dit fonds.

Van Schaap werd namelijk op 12 juli 2007 op rekening: a1806 een bedrag ontvangen van USD 219.000. Daarnaast stond Schaap als participant geregistreerd voor CLSF IV voor een bedrag van USD 300.000. Het betaalde bedrag was niet alleen USD 81.000 minder dan de aangegane participatie maar netto betaalde Schaap voor een participatie in CLSF IV ten bedrage van USD 300.000 een bedrag van USD 94.230.

Gezien de datering van de betaling aan Schaap en de omstandigheid dat er in de maanden november en december 2007 verder geen terugbetalingen van rekening: a4946 aan participanten heeft plaats gevonden, is het waarschijnlijk dat het verschil wat Schaap heeft bijbetaald gecompenseerd is met de uitbetaling voor de inleg in CLSF VI op 28 november 2007.

In totaal is er waarschijnlijk USD 822.000 terugbetaald op de inleg voor de zogenaamde Rifkin polis. Dit is terug betaald van rekening: a4946.

Dit is één van de drie rekeningen waar de participanten hun inleg op betaalden.

2.2.2.2. Uitkering in relatie tot LSF V: Hamilton polis:

In AH-021 staat de uitkering in relatie tot de LSF V beschreven. Uit het geldstroomonderzoek komt naar voren dat op 17 september 2009 een bedrag van USD 4.000.000 is afgeschreven van de rekening: a0037 met als omschrijving: 'atm debit wire transfer 001 127'. Het is (nog) onbekend wie de uiteindelijke ontvanger van dit bedrag is geweest. Uit de documenten D-0689 en D-0691 komt naar voren dat het hiervoor genoemde bedrag van USD 4.000.000 waarschijnlijk gebruikt is om de participanten in het product LSF V uit te betalen.

Voor wat betreft de rekening: a0037, verwijs ik naar paragraaf 2.2.1 en de daarop betrekking hebbende documenten. Het op 17 september 2009 afgeschreven bedrag ad USD 4.000.000 is gefinancierd door een interne overboeking de dato 31 juli 2009 van

D-0689, D-0691

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D-2444

USD 1.200.000 van bankrekening: a4946 en op 15 september 2009 van USD 2.800.000 van bankrekening: a0029.

Bankrekening: a4946 is één van de drie rekeningen die vrijwel uitsluitend door participanten gebruikt zijn om hun inleg op te betalen. Voor een schematisch overzicht van het hiervoor beschreven gebeuren, verwijs ik naar D-2444.

Voor wat betreft de rekening: a0029, verwijs ik naar de inleiding van paragraaf 2.2.2. en de daarop betrekking hebbende bijlagen. Uit het onderzoek naar deze rekening komt naar voren dat de overboeking de dato 15 september 2009 ten bedrage van USD 2.800.000 afkomstig is van rekening: a9740 dan wel van de rekening: a4946.

Beide rekeningen werden gebruikt om het door de participanten ingelegde bedrag op te ontvangen en werden bijna uitsluitend door die inleg gevoed.

2.2.2.3. Uitkering in relatie tot LSF I: Mittman polis:

D-2641
D-2642

In AH-019 staat de uitkering in relatie tot de LSF I beschreven. Uit het geldstroomonderzoek komt naar voren dat in de eerste helft van februari 2010 van rekening: a9403 betalingen zijn gedaan voor in totaal USD 9.691.944. Deze betalingen zijn gedaan vanwege de uitkering van de Mittman polis. Een overzicht van deze betalingen voeg ik als D-2641 bij dit proces-verbaal. Voor een schematisch overzicht van de geldstroom die tot deze uitkering heeft geleid, verwijs ik naar D-2642.

Rekening: a9403 heeft als tenaamstelling: 'Deborah C Peck ESC Acct Attorney Trust Account 3' en heeft op 27 januari 2010 een beginsaldo van 0. Op 28 januari 2010 werd een bedrag van USD 10.000.000 ontvangen op rekening: a9403. Dit bedrag was afkomstig van rekening: a0029.

Van dit bedrag is uiteindelijk de uitkering van de Mittman polis gedaan. Voor wat betreft een beschrijving van de rekening: a0029 verwijs ik naar de inleiding van paragraaf 2.2.2. Uit het geldstroomonderzoek komt naar voren dat het grootste deel van de overboeking van USD 10.000.000 afkomstig is van rekening: a9740.

Van deze rekening kwam namelijk in totaal een bedrag van USD 9.327.236. Het laatste bedrag ad USD 863.790 kwam van rekening: a4946.

Deze rekeningen werden gebruikt om de betalingen van de participanten op te ontvangen en werden vrijwel uitsluitend door middel van deze betalingen gevoed.

Nadat de uitkeringen in het kader van de Mittman polis hadden plaatsgevonden, resteerde nog een bedrag van USD 308.056. Naast de uitbetaling van de uitkeringen in het kader van de Mittman polis is rekening: a9403 op 24 februari 2010 alleen nog gebruikt voor de aankoop van een vliegtuig ten bedrage van USD 1.960.000. Dit vliegtuig betrof een zogenaamde Beechcraft 1900d met het serienummer: UE-70 en de initialen PH-RNG / ZS-PZH. Het restantbedrag voor de aankoop van het vliegtuig werd als volgt bij elkaar gebracht:

- een bedrag van USD	1.000.000	kwam van rekening: a9740;
- een bedrag van USD	500.000	kwam van rekening: a4946;
- een bedrag van USD	154.000	kwam van rekening: a9408.

Deze laatste rekening was de privé-rekening van de verdachte Moens.

D-2643

Voor een overzicht van het saldooverloop van rekening: a9403, verwijs ik naar D-2643. Op de horizontale as staan de dagen in de periode van 28 januari 2010 tot en met 24 februari 2010 vermeld en op de verticale as de bedragen in USD.

De zwarte lijn geeft het saldooverloop van rekening: a9403 in de genoemde periode weer. Uit het overzicht komt naar voren dat de uitbetaling van de Mittman polis op zes dagen heeft plaatsgevonden. De laatste dag dat er uit werd betaald, was op 16 februari 2010. In de tussentijd, namelijk op 12 februari 2010 is het saldo van rekening: a9403 toegenomen. Dat werd veroorzaakt door een ontvangst van rekening: a9740 ten bedrage van USD 650.000.

Vervolgens nam na 16 februari 2010 het saldo van rekening: a9403 trapsgewijs toe tot de betaling naar aanleiding van de aankoop van het vliegtuig op 24 februari 2010. Het saldo van rekening: a9403 bedroeg vervolgens: USD 276.

Hierna hebben er in juli 2010 en augustus 2010 nog enkele kleine 'interne' boekingen via deze rekening plaatsgevonden. De rekening is op 14 maart 2011 gesloten.

2.2.2.4. Uitkering in relatie tot LSF II: Duhl polis:

In AH-023 staat de uitkering in relatie tot de LSF II beschreven. Uit het geldstroomonderzoek komt naar voren dat in dat kader op 13 respectievelijk op 14 januari 2011 van rekening: a0037 voor in totaal USD 2.000.000 betalingen aan participanten zijn gedaan.

D-2644
D-2444

Een overzicht van deze betalingen voeg ik als D-2644 bij dit proces-verbaal. Voor een schematisch overzicht van de geldstroom die tot deze uitkering heeft geleid, verwijs ik naar D-2444.

D-2502

Uit het overzicht van D-2444 komt naar voren dat de betaling van de uitkering van de Duhl polis mogelijk werd gemaakt door een ontvangst op 12 januari 2011 van USD 2.000.000 op rekening: a0037. Dit bedrag was afkomstig van rekening: v1319 ten name van Running2 Limited en had als vermelding: 'premium payments darmany policy, linton policy, elliot policy, joherpolicy, guberman policy'. De betreffende 'wire transfer' voeg ik als D-2502 bij dit proces-verbaal.

Op rekening: v1319 ten name van Running2 Limited werd in de periode van 4 januari 2011 tot en met 11 januari 2011 een drietal bedragen ontvangen ten bedrage van in totaal USD 2.900.000. Dit waren de volgende ontvangsten:

- op 4 januari 2011 van rekening: a0102: een bedrag van USD 2.000.000;
- op 4 januari 2011 van rekening: a4946: een bedrag van USD 600.000;
- op 5 januari 2011 van rekening: a9740: een bedrag van USD 300.000;

waarbij geldt dat deze overboekingen alle drie dezelfde omschrijving hadden, namelijk: 'Proceeds Bgi 17 to 20 And Clsf39/40'.

In de periode van 4 januari 2011 tot de overboeking van USD 2.000.000 op 12 januari 2011 werd door middel van 5 afboekingen voor in totaal USD 1.050.000 van rekening: v1319 naar andere bestemmingen geboekt. Twee afboekingen bedroegen ieder USD 400.000, twee ieder USD 50.000 en één bedroeg USD 150.000.

Waarschijnlijk werden de overboekingen van de rekening: a4946 op 4 januari en van de rekening: a9740 op 5 januari van in totaal USD 900.000 gebruikt voor de vier overboekingen van twee maal USD 400.000 en tweemaal USD 50.000.

Het tekort ad USD 150.000 is waarschijnlijk gefinancierd met een op de rekening: v1319 aanwezig saldo op 4 januari 2011.

Het is gezien het voorgaande en gezien de overeenkomende omvang van het ontvangen en afgeboekte bedrag ad USD 2.000.000 waarschijnlijk dat het bedrag ad USD 2.000.000 dat op 4 januari 2011 van rekening: a0102 naar rekening: v1319 werd geboekt, bedoeld was voor de overboeking op 12 januari 2011 van USD 2.000.000 naar rekening: a0037 ter uitbetaling van de Duhl uitkering.

Mocht dit niet het geval zijn, dan is in ieder geval een deel van het bedrag wat tot uitkering van de Duhl polis heeft geleid, afkomstig van de rekeningen: a4946 dan wel a9740.

Er is namelijk op 4 januari 2011 een bedrag van USD 600.000 van rekening: a4946 ontvangen en op 5 januari 2011 een bedrag van USD 300.000 van rekening: a9740.

Beide zijn de rekeningen waar de participanten vrijwel uitsluitend hun betalingen op hebben overgemaakt.

Ervan uitgaande dat de overboeking de dato 12 januari 2011 naar rekening: a0037 uiteindelijk afkomstig is van rekening: a0102, merk ik het volgende op. Rekening: a0102 werd geopend op 5 april 2010 met als beginsaldo 0. De rekening had als tenaamstelling: 'CDS'. De rekening is gebruikt van 5 april 2010 tot en met 8 februari 2011.

D-2646

Voor een overzicht van het mutatieverloop van deze rekening verwijs ik naar D-2646. Op dit overzicht staan in rijen de verschillende mutaties aangegeven waarbij de koppen boven de rijen aangeven wat het gegeven in een veld inhoudt. Deze gegevens staat in kolommen vermeld onder de kolomkoppen.

Zo staat onder de kolomkop: 'bkrekening' de bankrekening waarvan de mutaties vermeld

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worden, in dit geval de: a0102. Onder de kolomkop: 'val dat' staan de valutadatum en onder de kop: 'mutatie' staan de bedragen van de verschillende mutaties. Wanneer een bedrag met een min wordt aangeduid, is er sprake van een afschrijving en anders is er sprake van een bijboeking. Onder de kop: 'saldo' wordt het saldo van de rekening vermeld per het einde van de valutadatum in dezelfde rij.

De boeking van rekening: a0102 naar rekening: v1319 de dato 4 januari 2011 staat vermeld in de rij met het nummer 31. Als saldo staat in die rij een bedrag vermeld van: USD 119.735,00. In rij 14 de dato 9 augustus 2010 staat vermeld dat het saldo op die dag USD 200.161,00 bedroeg.

Dat was onvoldoende om op 4 januari 2011 USD 2.000.000 over te kunnen boeken naar rekening: v1319 van Running2 Limited. Vooral ook omdat in rij 18 en in rij 19 een tweetal afboekingen staan vermeld voor in totaal USD 1.900.000.

In de rijen 15 tot en met 17 en in de rijen 20 tot en met 30 staat vermeld hoe het saldo van rekening: a0102 gegroeid is tot een bedrag van USD 2.119.735 op 3 januari 2011 met dien verstande dat op '17-12-10' nog een afboeking had plaatsgevonden ten bedrage van USD 200.000. Dit bedrag staat vermeld in rij 28 en was overgeboekt naar rekening: a0052. Dit gegevenskenmerk is te vinden onder de kolomkop: 'tegenrekening'.

De 'tegenrekeningen' van de boekingen van de rijen 15 tot en met 17 en de rijen 20 tot en met 30 zijn met uitzondering van de rijen 29 en 28 allen te kenmerken als rekening: a9740. De 'tegenrekening' van de opboeking van rij 29 is rekening: a4946 en bedraagt USD 150.000. Het gaat om een totaal bedrag van USD 4.019.574 aan opboekingen.

Ervan uitgaande dat de uitgaven van de rijen 18 en 19 deels gefinancierd zijn met het saldo op rij 14 de dato 9 augustus 2010 ad afgerond USD 200.000, blijft er voor de periode tot en met 4 januari 2011 een totale afboeking van de rekening: a0102 over van USD 3.950.000. Dit bedrag bestaat uit het bedrag van USD 1.900.000 minus USD 200.000 gevoegd bij de overboeking naar rekening: a0052 ad USD 250.000 en de overboeking naar de rekening van Running2 Limited ad USD 2.000.000.

Gezien het voorgaande is het zeer waarschijnlijk dat het hierboven bedoelde bedrag ad USD 2.000.000 tot stand is gekomen door middel van bijboekingen op rekening: a0102 van rekening: a4946 dan wel van rekening: a9740 met dien verstande dat het aandeel van rekening: a4946 in de opboekingen zeer gering is geweest.

In ieder geval werden beide rekeningen: a4946 en a9740 gebruikt om de betalingen van de participanten op te ontvangen. Het is dan ook zeer waarschijnlijk dat ook de uitkering van de Duhl polis betaald is met geld wat uiteindelijk afkomstig was van de participanten ter betaling van hun inleg.

2.3. De uitgaven voor het opzetten en instandhouden van de organisatie:

Zoals ik in paragraaf 2.1.1. memoreerde, is gedurende de onderzoeksperiode hoogstwaarschijnlijk een bedrag van USD 223.880.000 ontvangen van participanten. Dit naar aanleiding van de verkoop van verschillende producten door QI cum suis.

Rondom de verkoop van de verschillende producten was een organisatie opgebouwd. In deze paragraaf zal ik aan de ene kant belichten hoe de geldstroom voor het opzetten en het instandhouden van de organisatie liep. Aan de andere kant zal ik in grote lijnen schetsen welke uitgaven hiertoe gedaan zijn.

2.3.1. De geldstromen voor het opzetten en het onderhouden van de organisatie:

De verkoop van de producten werd verzorgd door QI cum suis. Hiertoe werd in Nederland en in enkele andere landen van Europa een organisatie opgezet. In België bevond zich de belangrijkste 'nevenvestiging' van QI cum suis. Het grootste deel van het door de participanten ingelegde bedrag was afkomstig van Belgische participanten. Voor de wijze waarop de administratie van QI cum suis ingericht was, verwijs ik naar AH-028.

De participanten betaalden hun inleg vrijwel uitsluitend op twee rekeningen die beheerd werden door Deborah C. Peck. Dit betroffen rekeningen in de VS en wel met name rekening: a9740 en rekening: a4946. Om het opzetten en het onderhouden van de organisatie te kunnen betalen, dienden er diverse uitgaven te worden gedaan.

Een deel van deze uitgaven is rechtstreeks van de rekeningen van Watershed LLC cum suis in de VS en op Cyprus en in Dubai gedaan. Een ander deel van de uitgaven werd vanuit Nederland en België gedaan. Voor een overzicht van de landen van waaruit de uitgaven ten behoeve van QI cum suis zijn gedaan, verwijs ik naar D-2647.

Op het overzicht staat per taartpunt vermeld vanuit welke landen uitgaven gedaan zijn, waarbij ik wil opmerken dat de vermelde getallen bedragen in duizenden USD zijn. Uit het overzicht op D-2647 komt bijvoorbeeld naar voren dat gedurende de onderzoeksperiode ten behoeve van QI cum suis vanuit de VS uitgaven zijn gedaan ten bedrage van ongeveer USD 18.113.000.

Uit het schematisch overzicht van D-2647 komt ook naar voren dat er door QI cum suis rechtstreeks uitgaven werden gedaan voor een bedrag van USD 26.744.000. Dit was mogelijk door geld vanuit de VS, Dubai en Cyprus terug te laten stromen naar Nederland. Voor een overzicht van de bankrekeningen die bij deze geldstroom van de VS naar Nederland zijn gebruikt, verwijs ik naar D-2648.

Op dit overzicht staat schematisch aangegeven van welke rekeningen van Watershed LLC in de VS gelden zijn overgeboekt naar de rekeningen van QI cum suis. De richting van de geldstromen wordt aangegeven door middel van de pijlen en de totaalbedragen zijn vermeld in USD.

Zo is bijvoorbeeld van rekening: a4946 USD 1.668.000 overgemaakt naar de rekeningen van BGIF BV. Op dezelfde rekeningen van BGIF BV is in totaal USD 4.338.000 afkomstig van rekening: a9740. Van de rekeningen van BGIF BV werden rentebetalingen gedaan aan de kopers van BGIF producten. Ik kom hierop terug in paragraaf 2.3.2. van dit proces-verbaal. In totaal is er een bedrag van USD 13.590.000 aan rente betaald. Een aanzienlijk deel van die rentebetaling: USD 6.006.000 was rechtstreeks afkomstig van de twee rekeningen die vrijwel uitsluitend gevoed werden met betalingen van participanten. In totaal is er ongeveer USD 21.000.000 overgemaakt vanuit de rekeningen van Watershed LLC in de VS naar QI cum suis.

Verder zijn er nog gelden van de rekeningen van Watershed LLC cum suis op Cyprus en in Dubai naar QI cum suis overgemaakt. Voor een schematische overzicht van deze geldstroom verwijs ik naar D-2649.

Op dit overzicht staat schematisch aangegeven van welke rekeningen van Watershed LLC cum suis in Dubai en op Cyprus gelden zijn overgeboekt naar de rekeningen van QI

cum suis. De richting van de geldstromen wordt aangegeven door middel van de pijlen en de totaalbedragen zijn vermeld in euro's. Uit het overzicht komt naar voren dat er met name vanaf de rekeningen van Running2 Limited en Crystal Life International FZE gelden zijn overgeboekt naar QI cum suis.

Zo gaat er bijvoorbeeld euro 2.819.000 van Crystal Life International FZE naar het hiervoor genoemde BGIF BV. Voor Running2 Limited gaat het hierbij om: euro 1.612.000. In totaal gaat het voor alle rechtspersonen om een bedrag van euro 4.543.000. Tegen een koers van 1,38 bedraagt dit USD 6.269.000.

Het totaal in USD wat QI cum suis van Watershed LLC ontvangen heeft, wijkt enigszins af van het totaal aan uitgaven in USD dat QI cum suis gedaan heeft. Het verschil wordt veroorzaakt doordat er naast de reguliere uitgaven van QI cum suis verschillende ontvangsten en uitgaven zijn geweest die te rangschikken zijn onder de mutaties die rechtstreeks in verband met de verdachten te brengen zijn. Deze zijn meegenomen in de berekeningen die de basis vormen van paragraaf 2.4. van dit proces-verbaal.

Uit het voorgaande komt naar voren dat de geldstromen naar QI cum suis afkomstig waren van de inleg van de participanten. Deze inleg kwam bijna volledig binnen op twee rekeningen in de VS. Vervolgens werd rechtstreeks van rekeningen in de VS en van rekeningen in Dubai en op Cyprus uitgaven gedaan ten behoeve van het opbouwen en instandhouden van de organisatie van QI cum suis.

Daarnaast werden ook uitgaven gedaan van rekeningen in beheer van QI cum suis. Deze rekeningen werden gevoed van verschillende rekeningen uit de VS, Dubai en Cyprus die beheerd werden door verschillende rechtspersonen. Deze rechtspersonen betroffen Watershed LLC, Crystal Life International FZE en Running2 Limited.

Het is (nog) onduidelijk waarom de geldstromen via deze rekeningen en rechtspersonen zijn gelopen. Verder is (nog) onduidelijk waarom de geldstromen niet rechtstreeks afkomstig waren van de twee rekeningen waar de participanten hun inleg op betaald hebben. De rekeningen van Watershed LLC in de VS werden beheerd door Deborah C. Peck. De rekeningen op Cyprus en in Dubai werden in opdracht van de verdachte Moens beheerd door een zaakgelastigde. In Dubai betrof dit een persoon genaamd: K. Kapoor.

2.3.2. De uitgaven voor het opzetten en het onderhouden van de organisatie:

In D-2441 staan de uitgaven voor het instandhouden van de organisatie vermeld. In totaal gaat het hierbij om USD 32.625.000. Omgerekend bedraagt dit euro 23.644.000. Het gaat hierbij om de uitgaven exclusief de betalingen aan HRM Lawyers BV. Vanwege de relatie van de verdachte Blom met HRM Lawyers BV heb ik de uitgaven richting HRM Lawyers BV afzonderlijk benoemd. Dat dit onderscheid ook door de verdachten Moens en Laan werd gemaakt, komt naar voren in paragraaf 3.1.1. van het PV 1-pv inzake de criminele organisatie. Voor zover dit voor het inzicht van belang is, zal ik enkele uitgaven in deze paragraaf toelichten.

In het overzicht van D-2441 staat dat een bedrag van USD 2.005.000 uitgegeven is in relatie tot Watershed LLC. Dit bedrag is betaald van de rekeningen van Watershed LLC in de VS. Het grootste deel was bestemd voor de betaling van diensten op het gebied van juridische bijstand en van financieel advies. Dit bedraagt in totaal USD 1.293.000. Het resterende bedrag is aan diverse zaken besteed.

Verder staat in het overzicht van D-2441 een netto bedrag vermeld van USD 2.900.000 waarvan (nog) niet bekend is voor welke doeleinden deze uitgaven zijn gedaan. Het gaat hierbij om de saldering van een totaal aan ontvangsten ten bedrage van USD 1.380.000 en een totaal aan uitgaven ten bedrage van USD 4.280.000. Mogelijk komt hier in het vervolg van het onderzoek meer duidelijkheid over.

Daarnaast zijn er door en voor QI cum suis uitgaven gedaan. In D-2441 staat vermeld dat ten aanzien van QI uitgaven zijn gedaan ten bedrage van USD 14.374.000 dan wel euro 10.416.000. Dit zijn uitgaven die met name gedaan zijn van bankrekeningen van QI cum suis. Een klein deel is betaald van de bankrekeningen in de VS, Dubai en Cyprus.

Vanaf 2010 kwam het grootste deel van de kosten voor rekening van AD-Consultancy BV. Deze rechtspersoon nam vanaf die tijd de rol van backoffice op zich voor QI cum suis. De rekening(en) van AD-Consultancy BV zijn (nog) niet in het geldstroomonderzoek betrokken. Wel heb ik de overmakingen vanaf de bankrekeningen van Watershed LLC cum suis uit de VS en Dubai naar AD-Consultancy BV meegenomen in de 'uitgaven ten behoeve van QI BV'. Het betreft hier een bedrag van USD 716.000. Deze uitgaven zijn in D-2650 meegenomen in de categorie: 'Diversen'.

In het overzicht van D-2441 staat het totaal van de uitgaven vermeld voor de uitgekeerde commissies met betrekking tot QI BvBA. Deze commissies zijn betaald als vergoeding voor de verkoop van de producten in België. Dit bedraagt USD 8.716.000. Deze uitgaven zijn met name door Watershed LLC in de VS zijn gedaan. Omgerekend bedraagt dit euro 6.316.000.

Er zijn van de rekeningen van QI cum suis ook uitgaven gedaan in relatie tot het opzetten en instandhouden van de organisatie van QI cum suis in België en Spanje. Deze zijn opgenomen in het hiervoor genoemde bedrag ad USD 14.374.000.

Al met al gaat het om een totaalbedrag van USD 23.090.000 wat in verschillende landen van verschillende rekeningen is betaald. Dit is ongeveer 10% van het totaal door participanten ingelegde bedrag.

D-2650

Voor een specificatie van een groot deel van dit totaal: namelijk USD 14.374.000, verwijs ik naar D-2650. In dit overzicht staan op de horizontale as de uitgaven in USD in duizenden vermeld waarbij op de verticale as de verschillende posten van de uitgaven aangegeven staan. Zo is er bijvoorbeeld aan 'Diversen' een bedrag van USD 3.081.000 uitgegeven en is (nog) onbekend waar uitgaven ten bedrage van USD 1.067.000 betrekking op hebben.

PV 1-pv

Uit het overzicht op D-2650 komt naar voren dat een bedrag van USD 6.055.000 is uitgegeven met het oog op het opzetten en het instandhouden van het verkoopapparaat. Daarnaast zijn er uitgaven gedaan voor het aan de man brengen van de diverse producten. Een deel van die uitgaven is gedaan door een bedrijf waar de verdachte Laan een belang van bijna 5% in heeft. Dit betreft het bedrijf genaamd: To be complete BV. Tot 9 februari 2010 is er omgerekend ongeveer USD 435.000 door QI cum suis betaald aan To be complete BV.

Het totaal aan verkoopkosten bedraagt ongeveer 3% van het door de participanten ingelegde bedrag.

D-2651

Voor een overzicht van de verkoopkosten per land, verwijs ik naar D-2651. In dit overzicht staat per taartpunt de uitgaven per land aangegeven. Dit betreffen de uitgaven die door en voor QI cum suis zijn gedaan. Zo is er binnen de Nederlandse context een bedrag van USD 3.187.000 uitgegeven en voor de Belgische organisatie een bedrag van ongeveer USD 2.464.000. Voor de wijze waarop de buitenlandse vestigingen van QI cum suis is opgezet, verwijs ik naar paragraaf 3.1.5. van het PV 1-pv inzake de criminele organisatie.

Zoals ik hiervoor al genoemd heb, staat in het overzicht van D-2441 een bedrag opgenomen van USD 8.716.000 voor uitbetalingen aan personen die betrokken waren bij de verkoop van de producten van QI cum suis in België. In totaal is het volgende betaald:

- aan dhr. J. Appel een bedrag van ongeveer USD 1.244.000;
- aan Fides Financial Services SA (Fides) een bedrag van ongeveer USD 7.218.000;
- aan Ianus Financial Service BvBA (Ianus) een bedrag van ongeveer USD 254.000.

Dhr J. Appel was verantwoordelijk voor de verkoop van de producten van QI cum suis in België en Luxemburg. Uit paragraaf 3.3.5.4. van het PV 1-pv komt naar voren dat hij eveneens rechthebbende was van de hierboven genoemde rechtspersonen Fides en Ianus. Hij was dan ook direct dan wel indirect rechthebbende van de betaalde commissies. In totaal gaat het om USD 8.717.000. Dit is 4% van het totaal door participanten ingelegde bedrag.

D-2650

Voor wat betreft de omvang van de personeelskosten, verwijs ik naar D-2650. Uit het overzicht komt naar voren dat gedurende de onderzoeksperiode USD 379.000 is betaald aan personeelskosten. Hierbij dient opgemerkt te worden dat het hierbij gaat om de

personeelskosten van QI BV. Vanaf 2010 kwam echter het grootste deel van de personeelskosten voor rekening van AD-Consultancy BV. De geldstromen binnen deze rechtspersoon zijn (nog) niet in de onderzoek betrokken.

Wel heb ik de overmakingen vanaf de bankrekeningen van Watershed LLC cum suis uit de VS en Dubai meegenomen in de 'uitgaven ten behoeve van QI BV'. Waarschijnlijk is een groot deel van de personeelskosten opgenomen in de categorie: 'Diversen'.

Bij het kopje: 'Aan medewerkers / relaties' staat op D-2441 een bedrag vermeld van USD 1.760.000. Dit betreffen betalingen aan enkele personen anders dan betalingen als loon dan wel als vergoeding van geleverde diensten. Het gaat hierbij, naast enkele personen die relatief kleinere bedragen ontvangen hebben, met name om de volgende personen die deels omgerekend en afgerond de volgende bedragen in USD hebben ontvangen:

- | | | |
|---|-----|------------|
| - I. van den Berg (werkneemster) naast haar loon: | USD | 155.000; |
| - B.M. Vajta een bedrag van: | USD | 475.000; |
| - Libertas America Inc / Shad Ellison een bedrag van: | USD | 1.030.000. |

Voor wat betreft de personen van den Berg en Vajta verwijs ik respectievelijk naar de paragrafen 3.3.1.8. en 3.3.4.5. van het PV 1-pv inzake de criminele organisatie. Onduidelijk is waarom aan bovengenoemde personen deze bedragen zijn uitbetaald.

Verder staat in het overzicht van D-2441 vermeld dat er in totaal USD 2.870.000 aan provisie is besteed. Dit is bijna volledig vanaf de rekeningen van Watershed LLC in de VS betaald. De provisie is uitbetaald aan 28 personen die als tussenpersonen provisies van met name Watershed LLC hebben gekregen voor de verkoop van de producten van QI cum suis. De zes grootste ontvangers betreffen de volgende:

- | | | |
|--|-----|----------|
| - Aan Eskawe BV een bedrag van ongeveer | USD | 628.000; |
| - Aan Belor BV een bedrag van ongeveer | USD | 410.000; |
| - Aan Javier Martin Riva een bedrag van ongeveer | USD | 314.000; |
| - Aan Holkos Bvba een bedrag van ongeveer | USD | 300.000; |
| - Aan Diana Trading BV een bedrag van ongeveer | USD | 285.000; |
| - Aan J.J. M. Kortekaas een bedrag van ongeveer | USD | 249.000; |

In totaal gaat het hierbij om ongeveer USD 2.186.000.

Samen met de betalingen aan dhr. J. Appel ad USD 8.716.000 is er USD 11.586.000 uitbetaald voor provisies en commissies. Dit bedraagt ongeveer 5% van het totaal door participanten ingelegde bedrag.

In totaal zijn er ten behoeve van het opzetten en het instandhouden van de organisatie van QI cum suis uitgaven gedaan ten bedrage van USD 32.625.000. Dit bedraagt ongeveer 15% van de totale inleg van de participanten. Omgerekend tegen een koers van 1,38 gaat het hierbij om een bedrag van euro 23.644.000.

Verder zijn er ten behoeve van de organisatie van QI cum suis nog andere uitgaven gedaan. Het gaat hierbij om een bedrag van euro 1.490.000 wat betaald is aan HRM Lawyers BV. Tot 20 november 2009 gaat het hierbij om een bedrag van euro 1.255.000.

Uit het overzicht van D-2650 komt naar voren dat er door QI cum suis een bedrag van USD 169.000 betaald is aan juridische bijstand en advies. Dit bedraagt euro 122.500. Dit bedrag is betaald naast de uitgaven richting HRM Lawyers BV. Ik heb dit bedrag afzonderlijk vermeld omdat HRM Lawyers BV verbonden was met de verdachte Blom en omdat de verdachten Moens en Laan ook onderscheid maakten tussen de reguliere uitgaven en de uitgaven richting HRM Lawyers BV.

Een klein deel van de betalingen aan HRM Lawyers BV is afkomstig van de rekeningen van Watershed LLC te Cyprus. Zo is er in 2008 een bedrag van USD 23.800,26 en een bedrag van euro 12.787,61 aan HRM Lawyers BV overgemaakt ter betaling van diverse facturen. Vanwege dezelfde reden is er in 2009 voor in totaal euro 72.861,18 aan HRM Lawyers BV overgemaakt. Onduidelijk is waarom HRM Lawyers BV betaald is van de rekening van Watershed LLC te Cyprus. Een verklaring kan liggen in hoofdstuk 3 van AH-019 inzake de uitbetaling van de Mittman polis.

In dat hoofdstuk komt naar voren dat er op 4 augustus 2009 euro 18.641,38 aan HRM

D-2565

Lawyers BV is betaald voor de betaling van een aantal facturen. Eén van die facturen betreft een factuur de dato 4 maart 2009 met het nummer 207629 waarin de kosten van de reis van de verdachten Moens, Laan en Blom in het begin van 2009 naar Costa Rica worden gefactureerd aan Watershed LLC. Deze reis is gemaakt ter voorbereiding van de uitbetaling van de uitkering in relatie tot LSF I: Mittman polis. Tijdens deze reis is dhr. Vargas van PCI door de verdachten bezocht.

Tenslotte zijn er in het kader van de verkochte BGIF producten maandelijkse betalingen gedaan tot een bedrag van euro 9.850.000. Deze bedragen zijn uitbetaald als rentevergoeding aan de participanten van deze producten. Deze betalingen werden gedaan van rekeningen van BGIF BV. De som van deze rentebetalingen bedraagt ongeveer 6% van het totaal van het door participanten ingelegde bedrag.

2.3.3. Tweetal andere soorten uitgaven:

Uiteindelijk heb ik in D-2441 nog een tweetal bedragen opgenomen die tot doel hadden de organisatie van QI cum suis dan wel Watershed LLC cum suis te dienen. Aan de ene kant gaat het hierbij om een totale netto uitgave van USD 2.482.000 in verband met Vievestment Ltd. Deze uitgaven zijn gedaan van de rekeningen van Watershed LLC cum suis in de VS, Dubai en Cyprus. Van een groot deel van de uitgaven is (nog) onbekend wat de exacte achtergrond er van is. Vievestment Ltd is de voorloper van QI cum suis. De activiteiten ervan zijn medio 2007 gestopt.

Aan de andere kant gaat het hierbij om de betalingen naar diverse rekeningen van Deborah C. Peck. Het gaat hierbij om een totaalbedrag van ongeveer USD 9.500.000. Onduidelijk is nog waarom deze betalingen gedaan zijn. Waarschijnlijk staan de betalingen in verband met de diensten die Deborah C. Peck aan Watershed LLC verleend heeft.

In het genoemde bedrag ad USD 9.500.000 zit een bedrag opgenomen van in totaal USD 550.000 wat betaald is aan Parcside LLC. De rechthebbende van deze rechtspersoon is Deborah V. Peck. Het gaat hierbij om een viertal bedragen die gedurende de periode van 18 augustus 2010 tot en met 10 januari 2011 betaald zijn door Running2 Limited van de rekening: v1319. Dit bedrag is niet overgemaakt naar rekening: a0052 waarvan bekend was dat deze op naam stond van Parcside LLC. Ik verwijs hiervoor naar paragraaf 2.1.3.1. van dit proces-verbaal. De genoemde boekingen zijn overgemaakt naar een rekening op naam van Parcside LLC op de Seychellen. Onduidelijk is (nog) waarom deze betalingen zijn gedaan en waarom hiervoor de rekening van Parcside LLC op de Seychellen is gebruikt.

In totaal is er direct dan wel indirect een bedrag van USD 9.500.000 aan Deborah C. Peck betaald. Het gaat hierbij om ongeveer 4% van het totaal door participanten ingelegde bedrag.

2.4. Betalingen aan personen die middellijk dan wel onmiddellijk gerechtigd zijn, dan wel geweest zijn, tot het vermogen van Watershed LLC:

- D-2441 Uit paragraaf 2.2. en 2.3. van dit proces-verbaal komt naar voren dat de kopers van de producten van QI cum suis een bedrag van USD 223.880.000 betaald hebben op bijna uitsluitend twee rekeningen van Watershed LLC in de VS. Er zijn vervolgens door Watershed LLC cum suis diverse betalingen gedaan ten behoeve van de in de vorige paragrafen genoemde doeleinden ten bedrage van USD 186.361.000. Uiteindelijk resteerde een bedrag van USD 37.519.000. Dit bedraagt omgerekend tegen een koers van 1,38 een bedrag van ongeveer euro: 27.189.000. Dit restbedrag is vervolgens uitgegeven aan verschillende doelen.
- D-2441 In het overzicht van D-2441 staat vermeld aan welke doeleinden deze euro 27.189.000 is uitgegeven. Allereerst is er voor een bedrag van euro 2.875.000 overboekingen gedaan naar bankrekeningen van QI AG en QI Holding AG te Zwitserland. Het is nog onduidelijk wat er met dit geld is gebeurd. Het onderzoek naar de geldstromen in relatie tot de Zwitserse bankrekeningen dient nog uitgevoerd te worden. De gegevens van de Zwitserse bankrekeningen zijn nog niet ontvangen van de Zwitserse autoriteiten.
- Vervolgens wordt in het overzicht van D-2441 onderscheid gemaakt tussen aan de ene kant uitgaven die vermoedelijk voor gezamenlijke rekening van de verdachte Moens en Laan zijn gedaan. Dit bedraagt ongeveer: euro 12.828.000 en hier kom ik verder in deze paragraaf op terug.
- Aan de andere kant komt in het overzicht per verdachte aan de orde ten behoeve van welke doeleinden uitgaven zijn gedaan. Dit bedraagt voor de verdachte Moens ongeveer euro 7.146.000, voor de verdachte Laan ongeveer euro 4.083.000 en voor de verdachte Blom ongeveer euro 257.000. Ik kom ook hier verder in deze paragraaf op terug.
- Allereerst zal ik kort stil staan bij de geldstromen naar de verschillende privé-rekeningen van de verdachten Moens en Laan. Vervolgens zal ik schetsen aan welke posten het genoemde bedrag ad euro 27.189.000 besteed is en hoe de daarmee corresponderende geldstromen zijn gelopen. Deze schets zal ik maken in euro's waarbij ik rekening houd met een omrekenkoers van 1,38 USD voor 1 euro.

2.4.1. De geldstromen naar de verschillende privé-rekeningen:

- D-2652 Uit het overzicht op D-2652 komt naar voren hoe de geldstromen van de verschillende rekeningen van Watershed LLC cum suis naar de bekende privé-rekeningen van de verdachten Moens en Laan zijn gelopen. Voor een overzicht van de in dit geldstroom-onderzoek betrokken bankrekeningen, de tenaamstellingen van de bankrekeningen en de afkortingen van de rekeningen zoals die in dit proces-verbaal gebruikt worden, verwijst ik naar D-2612.
- D-2612 De door middel van het onderzoek bekend geworden privé-rekeningen van de verdachten Moens en Laan staan vermeld in het middensegment van het overzicht op D-2652. De lijnen met de pijlen geven de gesaldeerde geldstromen weer waarbij de 'betalende' bankrekeningen aan de beide zijden van het overzicht staan vermeld. De bedragen met de vermelding: 'euro' zijn de geldstromen in euro's en de bedragen zonder vermelding zijn de bedragen in USD. In het overzicht is (nog) geen rekening gehouden met de overboekingen naar de privé-rekeningen van de verdachten Moens, Laan en mogelijk Blom in Spanje, Zwitserland en andere landen.
- D-2652 Uit het overzicht komt naar voren dat met name de verdachte Moens van diverse rekeningen van Watershed LLC cum suis bedragen heeft laten overmaken naar zijn privé-rekeningen. Zo is er bijvoorbeeld van de rekening: a4946 een totaalbedrag van USD 865.000 overgemaakt naar de privé-rekening: t7501 van Moens in Turkije. Verder komt uit het overzicht naar voren dat van de privé-rekening van de verdachte Moens: a9408 een bedrag van ongeveer USD 70.000 over gemaakt is naar de rekening: a4953 ten name van Deborah C. Peck. Deze overboeking vond plaats omdat Deborah C.

Peck van haar privé-rekening betalingen voor rekening van de verdachte Moens had gedaan. De rekeningen: a4946 en a9740 betreffen de twee rekeningen waar vrijwel uitsluitend de betalingen van de participanten op werden ontvangen.

Daarnaast komt uit het overzicht van D-2652 naar voren dat op de privé-rekening: a9408 van de verdachte Moens een bedrag van USD 770.000 ontvangen is. Dit bedrag is ontvangen van, dan wel stond in relatie tot, Parcside Equity LLC. Hetzelfde geldt voor een bedrag van USD 200.000 dat op de privé-rekening: t7501 ten name van de verdachte Moens ontvangen is.

Voor de achtergrond van deze laatste twee privé-ontvangsten verwijs ik naar paragraaf 2.1.3.1. van dit proces-verbaal en naar D-2441 bij de omschrijving: 'Ontvangst van en in relatie tot Parcside Equity LLC'. Voor de leesbaarheid van het overzicht is voor het totaalbedrag ad USD 970.000 als betalende bankrekening die van Parcside Equity LLC genoemd.

Tenslotte komt uit het overzicht van D-2652 naar voren komt dat van de privé-rekening: a9408 ten name van de verdachte Moens per saldo een bedrag van USD 129.000 naar rekening: a9403 is gegaan. Dit bedrag betreft een saldering van een boeking ten bedrage van USD 154.000 van rekening: a9408 naar rekening: a9403 en van een tegenboeking later in de tijd ten bedrage van USD 25.000.

Voor wat betreft de achtergrond van deze overboeking verwijs ik naar paragraaf 2.2.2.3. Dit bedrag is op 24 februari 2010 gebruikt voor de betaling van de aankoop van een vliegtuig ten bedrage van USD 1.960.000. Dit vliegtuig betrof het type Beechcraft 1900d met het serienummer: UE-70 en de initialen PH-RNG / ZS-PZH. Dit toestel is gebruikt voor de activiteiten van Orange Aircraft Leasing BV. Voor het totaal van de bestedingen voor Orange Aircraft Leasing verwijs ik naar paragraaf 2.4.2. van dit proces-verbaal en het overzicht wat vermeld staat op D-2653.

D-2653

Uit het overzicht van D-2652 komt naar voren dat de verdachte Moens op zijn bekende privé-rekeningen betalingen heeft ontvangen van rekeningen van Watershed LLC en van diverse rechtspersonen verbonden aan Watershed LLC uit de VS, Dubai en Cyprus. Het gaat hierbij naast Watershed LLC om de rechtspersonen: Running2 Limited en Crystal Life International FZE.

In totaal is er gedurende de onderzoeksperiode een totaal bedrag van euro 2.227.000 naar privé-rekeningen van de verdachte Moens overgemaakt. Uit het geldstroomonderzoek komt naar voren dat van dit bedrag euro 1.135.000 is uitgegeven aan levensonderhoud en bijdragen aan familieleden van de verdachte Moens. Ik verwijs hiervoor naar D-2441 bij de omschrijving: 'Uitgaven voor levensonderhoud en bijdragen aan familie'. Voor de besteding van het verschil ad euro 1.092.000, verwijs ik naar paragraaf 2.4.2. van dit proces-verbaal en het overzicht wat vermeld staat op D-2653.

D-2653

D-2652

Op het overzicht van D-2652 staat eveneens één van de privé-rekeningen van de verdachte Laan vermeld. Voor zover nu bekend werd alleen deze rekening gebruikt voor het ontvangen van bedragen. De ontvangsten waren over het algemeen afkomstig van rekeningen van QI BV. Verder is er een gering bedrag ontvangen van de Zwitserse rekening van QI AG.

Al met al is er gedurende de onderzoeksperiode een bedrag van euro 561.000 ontvangen op de privé-rekening van de verdachte Laan. Uit het geldstroomonderzoek komt naar voren dat dit bedrag is uitgegeven aan levensonderhoud en bijdragen aan familieleden. Ik verwijs hiervoor naar het overzicht op D-2441 bij de omschrijving: 'Uitgaven voor levensonderhoud en bijdragen aan familie'.

2.4.2. Betalingen ten behoeve van de verdachten:

D-2441

Het overzicht van D-2441 sluit af met de betalingen die door Watershed LLC cum suis waarschijnlijk voor rekening van de verdachten zijn gedaan. Het gaat hierbij om uitgaven tot een bedrag van euro: 24.314.000.

Uit het overzicht komt verder naar voren dat in verhouding een gering deel van dit bedrag toe te rekenen is aan de verdachte Blom. Uit het geldstroomonderzoek komt tot nu toe naar voren dat een bedrag van euro 257.000 rechtstreeks ten behoeve van de verdachte Blom is besteed. In D-2441 staat een specificatie van dit bedrag. Voor wat betreft de 'Besteding(en)' ad euro 30.000 valt op te merken dat hier nog onderzoek naar wordt gedaan. In paragraaf 3.2.7. van het PV 4-pv inzake het witwassen wordt eveneens ingegaan op de betalingen richting de verdachte Blom.

D-1865

Wel is de verdachte Blom tot 20 november 2009 indirect medeaandeelhouder geweest van Watershed LLC. Ik verwijs hiervoor naar paragraaf 3.1.1. van het PV 1-pv inzake de criminele organisatie en wel met name D-1865 waarin naar voren komt dat in het begin tussen de verdachten Moens, Laan en Blom was afgesproken dat ieder 33% zou krijgen. Het is dan ook waarschijnlijk dat een deel van de bestedingen voor 20 november 2009 voor rekening van de verdachte Blom zijn gedaan. Ook hier wordt nog onderzoek naar gedaan.

D-2654

Ongeveer euro 24.000.000 is waarschijnlijk besteed ten behoeve van de verdachten Moens en Laan. Voor een schematisch overzicht van de bankrekeningen die gebruikt zijn voor aan de ene kant de aankoop van duurzame activa voor de verdachten afzonderlijk en aan de andere kant de gezamenlijke investeringen van de verdachten Moens, Laan, en tot 20 november 2009, de verdachte Blom, verwijs ik naar D-2654. Voor wat betreft de aanduiding: 'duurzame activa' wil ik opmerken dat het hierbij gaat om uitgaven voor luxe-goederen zoals: huizen, auto's, boten, sieraden, bestedingen door middel van credit cards en een helikopter. Deze uitgaven staan gespecificeerd op D-2653.

D-2653

Op het overzicht van D-2654 staat het vierkant in het midden van het overzicht met de vermelding: 'duurzame activa moens en laan' symbool voor alle bestedingen ten behoeve van de aankoop van duurzame activa van de verdachte Laan of Moens. De lijnen met de pijlen geven de geldstromen weer waarbij de 'betalende' bankrekeningen aan de beide zijden van het overzicht staan vermeld. In de hoek rechtsboven staat nog een vierkant met de vermelding: 'gezamenlijke investeringen'. Deze rechthoek symboliseert alle gezamenlijke bestedingen ten behoeve van de verdachten Moens, Laan en tot 20 november 2009, Blom.

De bedragen met de vermelding: 'euro' zijn de geldstromen in euro's en de bedragen zonder vermelding zijn de bedragen in USD. In het overzicht is (nog) geen rekening gehouden met de rekeningen van de verdachten in Spanje, Zwitserland en mogelijk nog andere landen.

In het overzicht komt naar voren dat bankrekeningen van Watershed LLC in de VS en op Cyprus, van Running2 Limited in Dubai, van Crystal Life International FZE te Dubai en de bankrekening van Romano SA op Cyprus zijn gebruikt om betalingen te doen ten behoeve van de aankoop van duurzame activa en dergelijke voor rekening van de verdachten Moens en / of Laan. Voor wat betreft de relatie van de verdachten met de hiervoor vermelde rechtspersonen, verwijs ik naar het PV 1-pv inzake de criminele organisatie.

Uit het overzicht van D-2654 komt bijvoorbeeld naar voren dat van de rekening: a9740 voor USD 1.070.000 is uitgegeven aan duurzame activa voor de verdachten Laan en / of Moens en voor USD 3.744.000 voor gezamenlijke investeringen van de verdachten Moens, Laan en Blom. Deze rekening: a9740 en de rekening: a4946 werden gebruikt om de inleg van de participanten op te ontvangen. In totaal is er rechtstreeks van deze rekeningen ongeveer USD 13.014.000 betaald voor duurzame activa en / of investeringen voor de verdachten Moens en / of Laan en / of Blom.

Alles overziend is er voor een bedrag van euro 12.597.000 betalingen gedaan voor deelnemingen in bedrijven en de aanschaf van duurzame activa voor gezamenlijke rekening van de verdachten Moens en / of Laan.

Verder is er euro 9.685.000 uitgegeven ten behoeve van de aankoop van duurzame activa of de overboeking op (nog) niet onderzochte bankrekeningen ten name van dezelfde verdachten Moens of verdachte Laan.

D-2653

Voor een overzicht van de bestedingen ten behoeve van de verdachten Moens en / of Laan verwijs ik naar D-2653. Uit het overzicht komt naar voren dat van de door de participanten ingelegde gelden een bedrag van euro 12.828.000 is uitgegeven voor gezamenlijke rekening van de verdachten Moens, Laan en deels Blom. Dit bedrag komt overeen met het bedrag wat in het overzicht van D-2441 genoemd wordt bij de omschrijving: 'Betalingen waarschijnlijk voor gezamenlijke rekening van D.E. Moens en S.F.W. Laan. Een deel van dit bedrag is besteed in de periode voor 20 november 2009. Het gaat hierbij om een bedrag van ongeveer euro: 2.112.000.

Daarnaast komt naar voren dat het bedrag genoemd in D-2653 en D-2441 hoger is dan het hiervoor bij het overzicht van D-2654 genoemde bedrag ad euro 12.597.000 wat afkomstig was van bankrekeningen van Watershed LLC cum suis. Dat verschil is betaald van privé-rekeningen van de verdachte Moens.

En komt uit het overzicht van D-2653 naar voren dat van de door de participanten ingelegde gelden een bedrag van euro 3.521.000 besteed is ten behoeve van de verdachte Laan en een bedrag van euro 6.652.000 ten behoeve van de verdachte Moens. Deze bedragen komen overeen met de bedragen die in het overzicht van D-2441 genoemd worden bij de omschrijving: 'Aanschaf duurzame activa en overboeking(en)' bij respectievelijk de verdachte Laan en de verdachte Moens.

2.4.2.1. Betalingen waarschijnlijk voor gezamenlijke rekening van de verdachten Moens en Laan:

D-2653

Gedurende de onderzoeksperiode zijn er betalingen vanaf de rekeningen van Watershed LLC cum suis gedaan aan diverse bedrijven die geen relatie hebben met de activiteiten van Q1 cum suis, namelijk de verkoop van producten aan participanten. Onduidelijk is (nog) voor rekening van welke verdachte deze uitgaven zijn gedaan. Verder is (nog) onduidelijk in hoeverre de bestedingen zijn gedaan voor rekening van Watershed LLC dan wel de aandeelhouder(s) van Watershed LLC.

D-1863

Wel kwam in paragraaf 3.1.1. van het PV 1-pv inzake de criminele organisatie naar voren dat in ieder geval tot 20 november 2009 de drie verdachten Moens, Laan en Blom uiteindelijk gerechtigd waren tot het vermogen van Watershed LLC. Dit wordt nog bevestigd in de email de dato 24 februari 2009 waarin gesproken werd over het verdelen van de buit onder de drie verdachten Moens, Laan en Blom.

D-1273

Daarnaast komt uit een telefoongesprek de dato 3 maart 2011 tussen de verdachten Moens en Laan naar voren dat de verdachten de 'winst' geïnvesteerd hadden in een aantal met name genoemde bedrijven die eveneens door mij in het overzicht van D-2653 onder de gezamenlijke investeringen genoemd worden.

D-2653

In totaal gaat het om ongeveer euro 12.828.000. Voor een overzicht van al de bedrijven verwijs ik naar het overzicht op D-2653. Links op het overzicht staat vermeld aan welke personen welke totaalbetalingen zijn gedaan. Zo komt uit het overzicht onder andere naar voren dat er ongeveer euro 3.000.000 is betaald aan een bedrijf genaamd: Prout International Limited. Dit betreft de bouw van drie zeewaardige zeilcatamarans. Ik verwijs hiervoor naar paragraaf 3.2.5.4. van het PV 4-pv inzake witwassen en naar paragraaf 2.1.3.3. van dit proces-verbaal.

Verder is in het overzicht onderscheid gemaakt naar de verschillende landen waar de ontvangende personen gevestigd zijn. Zo is er in de VS aan een organisatie genaamd: 'My Smokin Ride Corp' een totaalbedrag van omgerekend euro 144.930 ter beschikking gesteld. Ten aanzien van deze rechtspersoon verwijs ik naar de paragrafen 3.3.4.3. en 3.3.4.2. van het PV 1-pv inzake de criminele organisatie. Hieruit komt naar voren dat 'My Smokin Ride Corp' een bedrijf is dat een internet site beheert en waarvan de directie gevormd wordt door de echtgenoot van Deborah C. Peck en Phil Lian. Deze laatste persoon is de gemachtigde van Parcside Equity LLC, de rechtspersoon waar over het algemeen de overlijdensrisicoverzekeringsspolissen van gekocht werden.

Aan personen in Nederland is er euro 6.550.000 betaald. De grootste ontvanger in Nederland betreft Orange Aircraft Leasing BV ten bedrage van ongeveer euro 3.360.000. In dit bedrag is eveneens de aankoop van het vliegtuig opgenomen waarvan de aankoop door mij vermeld is in paragraaf 2.2.2.3. en 2.4.1. van dit proces-verbaal. Orange Aircraft Leasing BV verricht geen activiteiten meer. Het aan Orange Aircraft Leasing BV betaalde bedrag is waarschijnlijk niet meer terug te krijgen. Voor Orange Aircraft Leasing BV verwijs ik verder naar paragraaf 3.2.5.3. van het PV 4-pv inzake witwassen.

Van de Nederlandse betalingen is verder bekend dat de onderneming genaamd: 'We Wannabet' zich richt op het door middel van internet verschaffen van de gelegenheid om te gokken. Hiertoe is een bedrag van ongeveer euro 2.290.000 besteed.

Special Products Schagen BV houdt zich bezig met het ontwikkelen van een techniek om algen uit zwembaden te kunnen verwijderen. Hiertoe is een bedrag van ongeveer euro 343.000 betaald.

Toon Holding BV / Flogs International BV is een onderneming die zich bezig houdt met het ontwikkelen van zogenaamde apps voor smartphones. Aan deze onderneming is ongeveer euro 460.000 betaald. Voor verdere informatie over de relatie met deze onderneming verwijs ik naar paragraaf 3.2.5.5. van het PV 4-pv inzake het witwassen.

Voor de investeringen van ongeveer euro 871.000 in Portugal en van euro 579.000 in Costa Rica geldt hetzelfde als voor bijvoorbeeld de investeringen in Orange Aircraft Leasing BV. Namelijk dat het geld hoogstwaarschijnlijk als verloren dient te worden beschouwd.

Tenslotte is van een aantal betalingen (nog) niet bekend wat de precieze achtergrond ervan is en welk doel deze gediend hebben. Hier wordt (nog) nader onderzoek naar gedaan.

2.4.2.2. Betalingen voor rekening van de verdachte Moens:

D-2441

Uit het overzicht van D-2441 komt naar voren dat er in totaal voor euro 7.849.000 bestedingen zijn gedaan voor rekening van de verdachte Moens. In dit bedrag is euro 1.135.000 opgenomen voor bestedingen ten behoeve van het levensonderhoud van en voor bijdragen aan de familie van de verdachte Moens. Rekening houdend met de ontvangst van omgerekend euro 703.000 in relatie tot Parcside Equity LLC is er ten behoeve van de verdachte Moens door Watershed LLC cum suis voor een bedrag van euro 7.146.000 uitgaven gedaan. Een groot deel hiervan staat vermeld op het overzicht van D-2653.

D-2653

De bestedingen voor rekening van de verdachte Moens staan aan de rechterzijde van dit overzicht. Het gaat hierbij om ongeveer euro 6.652.000.

De eerste categorie betreft de aankoop van een aantal boten. Het gaat hierbij om een netto totaalbedrag van euro 1.085.500. Dit bedrag heb ik aangemerkt als zijnde waarschijnlijk besteed voor rekening van de verdachte Moens omdat van diens privé-rekening diverse betalingen voor liggeld en premies van verzekeringen van de boten zijn gedaan. Onduidelijk is (nog) in hoeverre een deel van betalingen voor rekening van de verdachte Laan dan wel van de verdachte Blom zijn gedaan. Het grootste deel van de uitgaven, namelijk ongeveer euro 1.000.000 is voor 20 november 2009 gedaan.

Op 22 mei 2008 werd een bedrag van USD 344.374,46 ontvangen op de rekening: c7940 ten name van Watershed LLC van een persoon genaamd Klaus Sandmair met als omschrijving 'Purchase price boat'. Op 7 november 2008 werd van dezelfde rekening: c7940 ten name van Watershed LLC een bedrag van USD 997,49 inclusief kosten overgemaakt naar een onbekende rekening op naam van Ilan Orly adv met als omschrijving 'Commission – sale of yacht Daniel'.

De persoon genaamd Ilan Orly adv was al eerder ontvanger van een betaling geweest. Op 17 augustus 2007 namelijk, werd van de rekening: a4946 een betaling van USD 310.000 gedaan naar een rekening die op naam stond van Ilan Orly Adv en had als omschrijving: 'Onbehalft Dennis Moens/W/Dany Lipsz'.

D-2637

Uit onderzoek van het internet komt naar voren dat de persoon genaamd Ilan Orly verbonden is aan het kantoor: 'Ilán Orly & Co – Law Offices' te Tel Aviv. Volgens de internetsite van dit kantoor verleent men ook diensten op het gebied van het bemiddelen in de aankoop dan wel de verkoop van luxe jachten.

D-2600

Mede gezien de email tussen de verdachten Laan, Blom en Moens de dato 30 juli 2007 waarin gesproken wordt over de aankoop van een boot is het zeer waarschijnlijk dat op 17 augustus 2007 een betaling is gedaan voor de aankoop van een boot ten bedrage van USD 310.000 die op 22 mei 2008 een bedrag van USD 344.000 heeft opgeleverd. Dit bedrag werd ontvangen op een bankrekening van Watershed LLC op Cyprus. Welke boot dit betreft en wat er oorspronkelijk voor deze boot betaald is, is nog onduidelijk.

Vervolgens werd op 13 juni 2008 van de rekening: c7940 ten name van Watershed LLC een betaling van USD 647.495,26 gedaan aan Sunseeker Germany SA voor de aankoop van een jacht van het type: 'predator 58'. Dit jacht heet waarschijnlijk: 'Quality Time II'.

En op 18 juni 2008 werd van dezelfde rekening: c7940 ten name van Watershed LLC een betaling ad USD 500.987,91 gedaan aan Jetty Marine Limited voor de aankoop van een zeiljacht van het type: Hanse 540. Dit jacht heet waarschijnlijk: 'The Liberty'.

D-2621

In totaal is er gedurende de onderzoeksperiode in ieder geval een bedrag van ongeveer euro 1.085.000 betaald ten behoeve van de gekochte jachten. Dit bedrag is deels rechtstreeks betaald van een rekening waar participanten hun inleg op betaalden. Voor wat betreft de wijze waarop de rekening: c7940 gevoed is, verwijs ik naar D-2621. Hieruit komt naar voren dat de rekening: c7940 gedurende de onderzoeksperiode gevoed is met USD 724.000 van de rekening: a9740 en met USD 7.205.000 van de rekening: a4946.

D-2622

Daarnaast verwijs ik naar D-2622. Daaruit komt naar voren dat de rekening: c7940 gedurende de onderzoeksperiode gevoed is met USD 150.000 van de rekening: a0029 en met USD 964.000 van de rekening: a0011.

In totaal is er gedurende de onderzoeksperiode een bedrag van USD 9.672.000 ontvangen op de rekening: c7940 ten name van Watershed LLC. Hiervan is een bedrag van USD 9.043.000 ontvangen van rekeningen van Watershed LLC in de VS. Het grootste deel hiervan is rechtstreeks afkomstig van de twee rekeningen waar de participanten hun inleg op betaalden.

D-2653

Naast de bestedingen ten behoeve van de boten komt in het overzicht met betrekking tot de verdachte Moens naar voren dat in totaal een bedrag van euro 525.800 is besteed aan de aankoop van diverse auto's. Verder is er voor euro 2.450.000 uitgegeven voor de aankoop van huizen in Turkije, Florida, Spanje en Nederland.

Gedurende de onderzoeksperiode is er voor een bedrag van euro 431.000 sieraden gekocht en zijn er voor euro: 663.580 uitgaven gedaan door middel van credit cards. Dit komt boven het bedrag van euro 1.135.000 dat in bijlage D-2441 is opgenomen onder: 'Uitgaven voor levensonderhoud en bijdragen aan familie:'

In het overzicht met de bestedingen is verder een bedrag van euro 887.000 opgenomen. Het gaat hierbij om overboekingen van de rekeningen van Watershed LLC naar (nog) niet onderzochte rekeningen van de verdachte Moens in met name Spanje.

D-2655

Tenslotte is er naast deze overboekingen naar diverse bankrekeningen en de diverse uitgaven ten bedrage van euro 347.000, een betaling gedaan voor de aanschaf van een helikopter. Op 9 juni 2010 werd een betaling van USD 360.000 gedaan van de rekening: a0060 naar een bankrekening ten name van Insured Aircraft Title Service met de omschrijving: 'Robinson R44II Clipper-FAA Registration number N457R'. Voor een afbeelding van een soortgelijke helikopter verwijs ik naar: D-2655.

In totaal is er gedurende de onderzoeksperiode ten behoeve van de verdachte Moens voor euro 7.146.000 uitgaven gedaan. Voor wat betreft de bestedingen voor de verdachte Moens verwijs ik verder naar paragraaf 3.2.5. van het PV 4-pv inzake het witwassen.

2.4.2.3. Betalingen voor rekening van de verdachte Laan:

- D-2653 De bestedingen die Watershed LLC waarschijnlijk voor de verdachte Laan heeft gedaan, staan in de middelste kolom op het overzicht van D-2653 vermeld. Het gaat hierbij om euro 3.521.000. Een deel hiervan is besteed voor de aankoop van duurzame activa.
- D-2653 Zo is op 17 april 2008 een bedrag van USD 125.000 overgemaakt van de rekening: a4946 naar de rekening met het nummer: 4739.17.211 ten name van E.W. Driessen. Verder is op 22 april 2008 op de privé-rekening van de verdachte Laan: 4499 een bedrag van euro 8.284,31 ontvangen van rekening: 4739.17.211 ten name van E.W. Driessen BV met als omschrijving: 'restant bedrag'.
- D-2646 Volgens de gegevens van het internet is E.W. Driessen BV een dealer van pleziervaartuigen. Waarschijnlijk heeft de verdachte Laan netto ongeveer euro 82.400 betaald voor de aankoop van een boot. Dit geld was afkomstig van de rekening: a4946. Dit betrof één van de rekeningen die bijna uitsluitend gevoed is door de inleg van de participanten. Al met al is er gedurende de onderzoeksperiode ten behoeve van de verdachte Laan ongeveer euro 86.400 besteed in relatie tot boten.
- Daarnaast is er waarschijnlijk voor een bedrag van ongeveer euro 81.600 uitgegeven in relatie tot een Bentley en euro 40.600 voor de aankoop van sieraden.
- D-2653 Het grootste deel van de uitgaven voor de verdachte Laan is besteed in relatie tot Spanje. In totaal gaat het hier om een bedrag van ongeveer euro 1.946.000. Hiervan is een klein deel: ongeveer euro 214.800 betaald in het kader van de koop / huur van een huis op Ibiza.
- Een tweede deel: ongeveer euro 855.250 is betaald aan een persoon genaamd F.A.H. van de Weyer en een ander deel ongeveer euro 855.850 aan een stichting genaamd Stichting Beheer Spanje.
- D-2411 Voor wat betreft de betalingen aan Van der Weyer verwijs ik naar een email wisseling tussen de verdachte Laan en de genoemde Van der Weyer. Hieruit komt naar voren dat er onenigheid is tussen beide personen over de terugbetaling van een bedrag van euro 707.000 aan de verdachte Laan. Het is (nog) niet duidelijk wat de achtergrond is van deze betalingen van de verdachte Laan. Mogelijk dat het hierbij gaat om een investering van de verdachte Laan in een onroerend goed project.
- Stichting Beheer Spanje komt aan de orde in paragraaf 3.2.6.3. van het PV 4-pv inzake het witwassen. Daar in komt naar voren dat de bedragen die aan deze stichting zijn betaald waarschijnlijk deels zijn gebruikt om twee huizen ten bedrage van euro 308.000 in Spanje te kopen op naam van Marinta Litoral Invest SL. Voor het resterende bedrag is (nog) onduidelijk wat er met dit geld is gebeurd.
- D-2653 Ongeveer euro 1.128.000 is van de rekeningen van Watershed LLC cum suis overgemaakt naar (nog) niet onderzochte rekeningen van de verdachte Laan in Spanje, Zwitserland en / of Turkije. Hier wordt (nog) nader onderzoek naar gedaan.
- D-2441 Uit het overzicht van D-2441 komt naar voren dat naast de uitgaven van overzicht D-2653 ten bedrage van ongeveer euro 3.521.000 ongeveer euro 562.000 uitgegeven is ten behoeve van het levensonderhoud van en voor bijdragen aan de familie van de verdachte Laan.
- In totaal is er gedurende de onderzoeksperiode ten behoeve van de verdachte Laan voor ongeveer euro 4.083.000 aan uitgaven gedaan door Watershed LLC cum suis. Voor wat betreft de bestedingen voor de verdachte Laan verwijs ik verder naar paragraaf 3.2.6. van het PV 4-pv inzake het witwassen.

3. Resumé:

Dit proces-verbaal heeft tot doel een beschrijving te geven van de voorlopige uitkomsten van het strafrechtelijk onderzoek naar de geldstromen in relatie tot Watershed LLC. De onderzoeksperiode loopt van 1 januari 2007 tot en met 27 september 2011.

In de onderzoeksperiode is hoogstwaarschijnlijk een bedrag van USD 223.880.000 van participanten ontvangen voor de koop van producten van QI cum suis. Dit werd gedurende de eerste zes maanden van 2007 overgemaakt op een zogenaamde escrow rekening bij de Guaranty National Title Co. Na 1 augustus 2007 betaalden de participanten vrijwel uitsluitend op twee rekeningen die beheerd werden door Deborah C. Peck:

- 7859144946 met als tenaamstelling: 'Deborah C. Peck Attorney trust account';
- 7868289740 met als tenaamstelling: 'Deborah C. Peck Attorney trust account II'.

De ontvangsten laten in de loop van de tijd een sterk wisselend beeld zien met pieken en dalen. De trend is echter dat de ontvangsten relatief snel zijn gestegen van april 2007 tot en met januari 2008. Na een geringe daling tot en met februari 2009 is er tot mei 2010 een sterke stijging waar te nemen. Uiteindelijk treedt vanaf juni 2010 een forse daling van de ontvangsten op. De sterke daling werd vermoedelijk veroorzaakt doordat QI cum suis na juni 2010 bekend moest maken dat PCI de herverzekeraar was.

Een groot deel, namelijk 67%, van de ontvangsten van de participanten werd doorgeboekt naar andere rekeningen die bij Deborah C. Peck in beheer waren. Het gaat, naast de hiervoor genoemde 2 rekeningen, om 18 rekeningen. Verder werd een deel, 13%, door geboekt naar rekeningen van Watershed LLC, Running2 Limited, Crystal Life International FZE, Romano SA en Zilwood SA. Al met al is 80% van het van de participanten ontvangen bedrag doorgeboekt naar diverse rekeningen in de VS, op Cyprus en in de VAE.

Het is onduidelijk waarom deze 'interne' boekingen in deze omvang hebben plaats gevonden. Verder is het onduidelijk waarom de betalingen voor het doen van uitgaven niet gedaan zijn vanaf de twee rekeningen waar ook de participanten vrijwel uitsluitend hun inleg op hebben overgemaakt. Mogelijk dat deze werkwijze is toegepast omdat Deborah C. Peck een vergoeding kreeg die deels gebaseerd was op de omvang van de overgeboekte bedragen gedurende een bepaalde periode.

Naast de interne boekingen werden er van allerlei rekeningen ook werkelijke uitgaven gedaan. Zo er gedurende de onderzoeksperiode:

- voor ruim USD 50.000.000 betaald voor de inkoop van polissen. Hierbij valt op te merken dat het grootste deel van de aankopen: 77%, gedaan is bij dezelfde aanbieder: Parcside Equity LLC. De reden ligt vermoedelijk in de betaling van deze leverancier van USD 870.000 op twee privé-rekeningen van de verdachte Moens;
- voor ruim USD 30.000.000 betaald aan premies voor het instandhouden van de polissen aan verzekeringsmaatschappijen;
- voor ongeveer USD 19.551.000 betaald voor de aankoop van CD's. De aankoop van deze CD's is gefinancierd met de inleg van de participanten;
- een bedrag van ongeveer USD 19.803.000 ontvangen voor de verkoop van CD's. Er is in de periode van november 2010 tot en met februari 2011 voor ongeveer USD 13.700.000 aan CD's verkocht. Een deel van de opbrengst werd gebruikt om een aantal deelbetalingen te doen voor de bouw van 3 zeewaardige zeilcatamarans;
- ongeveer USD 17.535.000 betaald aan PCI ter vergoeding van de aangegane contraverzekeringen;
- ongeveer USD 16.514.000 uitgekeerd aan participanten. In tegenstelling tot wat aan de participanten bericht werd, heeft niet PCI deze uitkeringen gedaan. De uitkeringen zijn eigenlijk gedaan met gelden die de participanten zelf hadden ingelegd. Dit is een belangrijk kenmerk voor de zogenaamde 'ponzifraude'.

Er zijn ook uitgaven gedaan voor het instandhouden van de organisatie. In totaal gaat het hierbij om USD 32.625.000. Dit bedraagt ongeveer 15% van de totale inleg van de participanten. De betalingen zijn gedaan van de rekeningen van Watershed LLC in de VS, op Cyprus en in Dubai en van QI cum suis vanuit Nederland. Het grootste deel van de uitgaven betroffen reguliere uitgaven. Noemenswaardig is verder het volgende:

- er is direct dan wel middels rechtspersonen ongeveer USD 8.716.000 betaald aan dhr. J. Appel. Deze was verantwoordelijk voor de verkoop van de producten van QI cum suis in België;
- daarnaast is een bedrag van USD 6.055.000 uitgegeven voor het opzetten en onderhouden van het verkoopapparaat in Nederland, België en Spanje;
- twee personen genaamd I. van de Berg en B.M. Vajta hebben gezamenlijk in totaal USD 620.000 ontvangen waarbij nog niet duidelijk is waarvoor dit was;
- naast de betaling aan J. Appel is er voor in totaal USD 2.870.000 aan provisies betaald. Deze betalingen werden gedaan vanuit de VS.

Verder is er in totaal een bedrag van USD 2.055.000, omgerekend euro 1.490.000, aan HRM Lawyers BV betaald. Een klein deel van deze betalingen is afkomstig van de rekeningen van Watershed LLC te Cyprus. Waarschijnlijk is dit gedaan om verleende diensten af te schermen van de rest. Zo is de factuur de dato 4 maart 2009 met het nummer 207629 waarin de kosten van de reis van de verdachten Moens, Laan en Blom in het begin van 2009 naar Costa Rica werden gefactureerd, door Watershed LLC te Cyprus betaald.

Eveneens naast de eerder genoemde uitgaven ad USD 32.625.000, omgerekend euro 23.644.000, zijn er in het kader van de verkochte BGIF producten maandelijkse betalingen gedaan tot een bedrag van euro 9.850.000. Deze bedragen zijn uitbetaald als rentevergoeding aan de participanten van deze producten.

En werden er betalingen gedaan naar diverse rekeningen van Deborah C. Peck. Het gaat hierbij om een totaalbedrag van ongeveer USD 9.500.000. Onduidelijk is nog waarom deze betalingen gedaan zijn. Waarschijnlijk staan de betalingen in verband met de diensten die Deborah C. Peck aan Watershed LLC verleend heeft.

In het genoemde bedrag ad USD 9.500.000 zit een bedrag opgenomen van in totaal USD 550.000 wat betaald is aan Parcside LLC. De rechthebbende van deze rechtspersoon is Deborah V. Peck. De genoemde boekingen zijn overgemaakt naar een rekening op naam van Parcside LLC op de Seychellen.

Tenslotte bleef na alle uitgaven een bedrag over van USD 37.519.000. Omgerekend bedraagt dit euro 27.189.000. Uiteindelijk is dit bedrag grotendeels terecht gekomen bij de verdachten Moens, Laan en Blom. Van slechts een deel: euro 2.875.000 is (nog) niet bekend hoe dit besteed is. Het restant is op de volgende wijze uitgegeven:

- | | | |
|--|------|-------------|
| • voor gezamenlijke rekening van de verdachten een bedrag van: | euro | 12.828.000; |
| • ten behoeve van de verdachte Moens een bedrag van: | euro | 7.146.000; |
| • ten behoeve van de verdachte Laan een bedrag van: | euro | 4.083.000; |
| • ten behoeve van de verdachte Blom een bedrag van: | euro | 257.000. |

Voor wat betreft de verdachte Blom dient daarbij opgemerkt te worden dat gedurende de tijd dat de verdachte Blom medeaandeelhouder was van Watershed LLC er een bedrag van ongeveer euro 2.000.000 betaald is in relatie tot de verdachten. Hetzelfde geldt voor de uitgave ten bedrage van euro 1.000.000 voor de aankoop van een aantal boten.

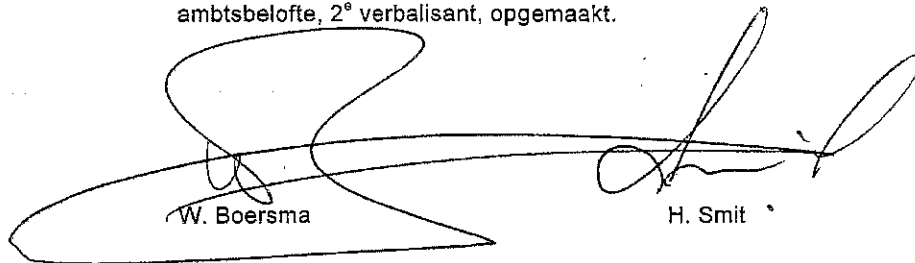
Resteert de vraag of de rol van Deborah C. Peck zich uitsluitend beperkt heeft tot het verlenen van diensten als trustee. Uit het geldstroomonderzoek zijn bij het vervullen van deze rol de volgende kritische opmerkingen te plaatsen:

- uit het onderzoek komt naar voren dat 80% van de van participanten ontvangen gelden direct dan wel indirect werd doorgeboekt naar rekeningen van Watershed LLC cum suis te VS, op Cyprus en Dubai. Deborah C. Peck was deels verantwoordelijk voor deze 'interne' boekingen;

- van de privé-rekening van Deborah C. Peck zijn voor in totaal USD 70.000 privé-uitgaven gedaan ten behoeve van de verdachte Moens. Deze zijn door de verdachte Moens in één bedrag terug betaald;
- de uitkeringen aan participanten zijn door middel van en grotendeels rechtstreeks van de rekeningen betaald waar Deborah C. Peck verantwoordelijk voor was. Zij is daarbij behulpzaam geweest bij het construeren van een schijnwerkelijkheid voor de participanten;
- Deborah C. Peck heeft middels haar gerechtigheid tot het vermogen van Parcside LLC de beschikking gekregen over een totaalbedrag van USD 550.000. Dit is door Running2 Limited op de rekening van Parcside LLC op de Seychellen overgemaakt;
- vanaf 2010 werden de betalingen voor de inkoop van de polissen niet meer gedaan van rekeningen van Watershed LLC maar van rekening: a0052 die op naam stond van Parcside LLC. Onduidelijk is waarom deze werkwijze is gekozen;
- tenslotte is Deborah C. Peck behulpzaam geweest bij de verkoop en de doorboeking van een groot deel van de opbrengst van de CD's die vervolgens gebruikt werd om de bouw van drie zeewaardige catamarans te financieren.

4. Ondertekening verbalisanten:

Wij hebben dit proces-verbaal op 1 maart 2012 te Zwolle op ambtseed, 1^e verbalisant, en ambtsbelofte, 2^e verbalisant, opgemaakt.



W. Boersma

H. Smit

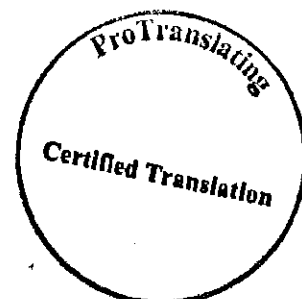
Official report of findings
Detailed description of money trails

Department of Inland Revenue/FIOD
Zwolle office
Noordzeelaan 42-44, 8017 JW Zwolle

COPY

File number
45054
Code number
AH-029

Reporting officers	
1.Name First names Function Card no. Location	Boersma Wijtse Investigating officer Inland Revenue/FIOD 4107241 Zwolle office
2.Name First names Function Card no. Location	Smit Hendrik Investigating officer Inland Revenue/FIOD 5101460 Zwolle office
Under the supervision of the Public Prosecutor Mr J.T. Pouw of the National Public Prosecutor's Office for Financial, Economic and Environmental Offences in Zwolle, we have commenced a criminal investigation against various parties, including:	
Suspect (legal person) Name Location Address Core activity Commercial name Registered office Commercial registry no. Location of Commercial Register Date of establishment Tax ID	Quality Investments BV Amsterdam Strawinskylaan 1005 tower A10 Sale of investment products Quality Investments and Quality Institutional Amsterdam 34132404 Amsterdam 14 August 2000 8091.57.901



1. Introduction
2. Investigation into the money trails in relation to Watershed LLC:
 - 2.1 The money received from the participants and the expenditures effected in direct relation to the policies
 - 2.1.1. The money received from the participants
 - 2.1.2. The money trails within the accounts managed for Watershed LLC
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 - 2.1.2.2. Accounts on Cyprus and in the UAR managed by others
 - 2.1.3. The expenditures effected in direct relation to the policies
 - 2.1.3.1. The purchase of policies
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 - 2.2.1. The payments to Provident Capital Indemnity Ltd (PCI)
 - 2.2.2. The payments to participants in connection with the release of products
 - 2.2.2.1. Payments in relation to CLSF VI: Rifkin policy
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 - 2.2.2.4. Payment in relation to LSF II: Duhl policy
 - 2.3. Expenditures for the establishment and maintenance of the organization
 - 2.3.1. Money trails for the establishment and maintenance of the organization
 - 2.3.3. Two other types of expenditure
 - 2.4. Payments to persons that are or have been directly or indirectly entitled to the assets of Watershed LLC
 - 2.4.1. Money trails to the various private accounts
 - 2.4.2. Payments on behalf of the suspects
 - 2.4.2.1. Payments probably for the joint account of the suspects Moens and Laan
 - 2.4.2.2. Payments for the account of the suspect Moens
 - 2.4.2.3. Payments for the account of the suspect Laan
3. Resume
4. Signature of reporting officers



1. Introduction:

The purpose of this report is to give a description of the provisional results of the criminal investigation into the money trails in relation to Watershed LLC. For the natural and legal entities named in this official report, I refer to the official report of the findings of the investigation into the criminal organization with the code: PV 1-pv.

The investigation revealed that the bank accounts of Watershed LLC, Running2 Life Limited and Crystal Life International FZE are used for incoming and outgoing flows of funds associated with the sale of the products to participants. In this official report, for the sake of readability, I will therefore refer to Watershed LLC and its financially 'associated' legal persons as Watershed LLC cum suis. Furthermore, also for readability, rather than naming the legal persons that were responsible from the Netherlands over the course of time for the sale of products to the participants individually, I will refer to them as QI cum suis. This applies in any case to the suspected legal persons: Quality Investments BV and Quality Investments Nederland BV.

This criminal investigation into the money trails focuses on the period from 1 January 2007 to 27 September 2011. It was executed by entering all the transactions of the investigated bank accounts onto spread sheets and then analysing them. Because of the huge quantity, ultimately not all the copies will be attached to this official report. The copies are stored in digital form and/or in physical form at the office of the FIOD in Zwolle and are available for perusal. The documents that are noted in the left margin will not be appended separately to this official report. They are, however, accessible to the reader at the central library of appendices.

The objectives of the investigation of the money trails are the following:

- * To clarify how the money of the participants proceeded through the various bank accounts in relation to Watershed LLC cum suis and QI cum suis on the one hand and the relationship to the defendants on the other;
- * To acquire insight into the final destinations of the money paid by the participants.

2. Investigation into the money trails in relation to Watershed LLC:

D-2441

For an overview of the money trails in relation to Watershed LLC, I refer to D-2441. This overview serves as a common thread running through this official report. When in this report there are statements in the I form, this refers to the first reporting officer mentioned.

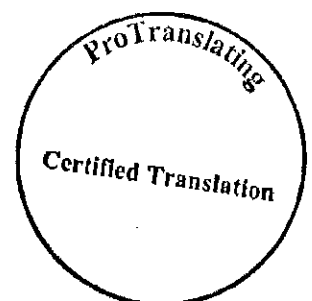
The incoming money is addressed in paragraph 2.1. Then, within this paragraph we explore the way in which the money is managed and which accounts are used to make payments to third parties.

Paragraphs 2.2. to 2.4. view the expenditures. The closer these expenditures are in relation to the products offered, the earlier they are described.

Finally, in paragraph 2.4., expenditures are addressed that were most likely effected at the order or on the behalf of the stakeholders of Watershed LLC. This refers to the suspects: Moens, Laan and Blom.

The amounts that I mention in this official report are rounded to whole amounts and present an approximation of a given quantity. When I mention an amount, I mean that the amount stated is approximately the same as the actual amount.

In paragraph 3, I will summarise what was dealt with in this official report.



2.1. The money received from the participants and the expenditures effected in direct relation to the policies.

2.1.1. The money received from the participants:

- D-2441 During the investigation period, most likely the amount of US\$ 223,880,000 was received from participants for the payment of the various products sold by QS cum suis. This amount differs slightly from the sales as indicated in AH-028. In AH-028, we deal with the findings on the examination of the sales records of QI cum suis. The reason for this deviation is not yet clear. This is because I have not (yet) established a connection between the actual payments of the participants and the administration of QI BV. Part of the difference, however, can be explained. In the third and fourth years, the participants pay additional amounts for the insurance premiums to be paid in those years for the policies in the CLSF products. These are indeed included in the overview of D-2441 as money received, and marked as having been received from 'participants in CLS Funds' and not in the calculation of AH-028. During the first 6 months of 2007, the participants transferred their payments to a so-called 'escrow' account at JP Morgan Chase Bank with the number: 53300061006 (a1806). This account was held by Guaranty National Title Company. Here an 'escrow account' with the number 07-0012 is maintained by: 'Closed Life Settlement Fund I / Stichting derden gelden CLSF'. The total amount of money received in this account is approximately, US\$ 7,500,000. This involved the proceeds from the sale of the products: CLSF I, CLSF III and CLSF IV. For an overview of the bank accounts involved in this money trails investigation, the names on the bank accounts and the abbreviations of the accounts as these were used in this official report, I refer to D-2612. For the sake of the readability of this official report, the accounts will be referred to by abbreviations. In August 2007, the balance of the bank account a1806 in the amount of US\$ 2,862,066 was transferred to account: 7589144946 (a4946). This account is managed by Deborah C. Peck. After 1 August 2007 the participants paid for their purchase into two accounts that were managed by Deborah C. Peck. This involved the accounts:
- D-0100 7859144946 under the name 'Deborah C. Peck Attorney Trust Account'; 7868289740 under the name 'Deborah C. Peck Attorney Trust Account II'. Deposited into the account a4946 during the period from 13 August 2007 to 5 July 2011 was approximately US\$ 116,230,000 in payments from participants, and into the account: 7868289740 (a9740) during the period from 28 August 2007 to 24 February 2011 was approximately US\$ 100,000,000. Together with the total incoming funds of US\$ 7,500,000 into account a1806, this equals US\$ 223,730,000. This differs from the previous total of US\$ 23,880,000 that I mentioned earlier on this page. The difference of US\$ 150,000 resulted from:
- D-2812
- One participant paying his deposit of US\$ 248,800 into an account of Running2 Limited in Dubai;
 - One participant having his additional contribution of US\$ 34,800 to pay for the insurance premiums deposited into account a7903;
 - One participant being reimbursed her deposit of US\$ 121,250 from the account a0060;
 - There are rounding differences in the amount of US\$ 12,350.
- Almost all payments from the participants came into the accounts a4946 and a9740. They were almost exclusively fed by the investment of the buyers of the products of QI cum suis. In addition to the payments from the participants during the investigation period, approximately US\$ 60,000 was received from the bank due to interest on the balances of both accounts.



D-2613

The money trails investigation and the overview of D-2441 revealed that 53% of the total received from the participants is associated with the sale of CLS Funds. The share of 8GI Funds is: 46% and 1% comes from sales of LIP funds. Of the LIP funds as a product little is (yet) known, except that specifically in the period from October 2010 to February 2011 they were sold.

For a diagrammatic overview of the money that came in from participants per calendar month during the period from February 2007 until mid-2011, I refer to D-2613. This overview shows, on the horizontal line, the calendar months in the years 2007 to 2011. The vertical line shows the amounts received per month in US\$ where a scale distribution of US\$ 1,000.000 was chosen. This overview shows that the money coming in showed great fluctuation, with peaks and valleys. I have not (yet) investigated the reason for this. There is, however, a trend line contained in the overview. That is the thick wavy black line that runs from left to right in the overview. The calculation that is the basis of the trend line flattens the peaks and fills in the valleys, attempting to show a trend over the course of time.

For example, the trend line shows that the money coming in increased relatively rapidly from April 2007 to January 2008. Then there is a slight decline in money coming in from February 2008 to February 2009. Then, until May 2010, there is a strong increase in funds, after which a sharp drop in funds occurs until March 2011.

D-2614

For a breakdown of the incoming funds to the various product types (CLSF, BGIF and LIP) over the calendar months from 2Q07 to mid-2011, I refer to D-2614. The vertical and horizontal lines show the same characteristics as those mentioned in D-2613. The shape of the graph is also the same as that of D-2613 with the proviso that there are now three areas to be distinguished. The darkest area shows the receipts in connection with the sale of LIP products, the medium grey area those of BGIF products, and the light grey one those of CLSF products, with the understanding that the areas are stacked on each other. The total received per month is equal to that shown in D-2613.

On the overview of D-2614, it can particularly be seen that during the period from April 2007 to May 2008, only money came in in the framework of the sale of CLSF products. Starting in June 2008, the share of BGIF products increases considerably, with in some months more being received from the sale of BGIF products than from CLSF products. From April 2010 onward the sale of this product, after a small peak in August 2010, collapses.

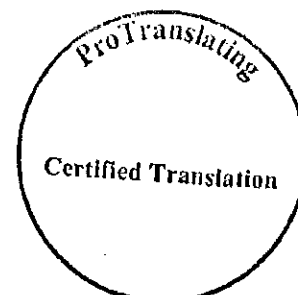
The same applies to the receipts from the sale of CLSF products. Revenue from the sale of LIP products is minimal and is realized only in the period from October 2010 to January 2011.

The distribution of the revenue according to the various product types comes across even more clearly in the graphs on D-2615 and D-2616. In the chart on D-2615, sales per product category are divided over a period of six months. Here, on the vertical line the half-year areas in the years 2007 to 2011 are named, and on the horizontal line the amounts received in US\$ per category, with the understanding that the amounts received are stated in thousands. Here, again, the dark bars show the revenue from the sale of LIP products. The medium-grey ones show the revenue from the sale of BGIF products and the light ones the revenue from the sale of CLSF products. During the first half of 2009: '1-2009' to the second half of 2010: '11-2010', more was received from the sale of BGIF products than from the sale of CLSF products.

D-2615

D-2616

In the graph of D-2616, this is elaborated per quarter with an overview given of the third quarter of 2009 to the 1st quarter of 2011. Also shown on this overview is that from the 3rd quarter of 2010 onward, the revenue from the sale of all types of products falls considerably.



The decrease in revenue from the sale of the products by QI cum suis from the second half of 2010 is probably caused by the publication of the name of the reinsurer, Provident Capital Indemnity Ltd (PCI) in June 2010. I refer the reader to the findings concerning the timeline in AH-032 and the findings concerning PCI in AH-025.

2.1.2. The money trails within accounts managed for Watershed LLC:

2.1.2.1 Accounts in the USA managed by Deborah C. Peck:

Over the period from 1 July 2007 to 24 February 2011, approximately US\$ 219,000,000 was received in two accounts managed by Deborah C. Peck. This amount was eventually spent for the purposes stated in D-2441. However, these expenditures were effected in part directly from the accounts a4946 and a9740.

Part of the revenue from the participants was transferred onward to other accounts managed by Deborah C. Peck. In addition to the two abovementioned accounts, this involved 18 other accounts. These were used to transfer money back and forth. In this official report I refer to these accounts as the 'internal' accounts'.

Part of these 'internal' accounts, however, were also used for transfers in the context of the expenditures specified in the overview of D-2441.

From the bank account a4946, an amount of approximately US\$ 39,000,000 was transferred to these 18 'internal' accounts. Of this, an amount of approximately US\$ 1,500,000 came back to the bank account a4946.

This is shown diagrammatically in D-2617. In this document the amounts are stated in US\$ on the horizontal line. The amounts that are indicated to be negative and are to the left of the central axis represent the amounts that went from bank account a4946 to the various 'internal' accounts.

D-2617

These 'internal' accounts are along the left vertical axis. The amounts indicated as positive and are to the right of the central axis are the amounts that went from the 'internal' accounts to account a4946. The figures stated at the bars represent the total amount per account.

In the overview, for example, account a7903 stands out as the account to which the greatest amount of money went and from which the most money came back. Net, this involves 'only' the amount of approximately US\$ 1,000,000. When we look at the account to which the greatest net amount went, account a0052 stands out. For the background of this account, I refer to paragraph 2.1.3.1. of this official report.

Regarding account a9740, it is noted that a sum of approximately US\$ 60,000,000 went to the various 'internal' accounts. An amount of approximately US\$ 3,860,000 went from the various 'internal' accounts to the account a9740. For a diagrammatic overview, I refer to D-2618. This overview should be read in the same manner as D-2617. It is particularly noted from the overview that the greatest amount of money went from account a9740 to account a0029. For the background of this account, I refer to paragraph 2.2.2. of this official report.

D-2618

In the diagrammatic overview of D-2619, the total picture of the 'internal' bookings to and from the accounts a4946, a9740 and a1806 is shown. The dark grey shaded areas represent accounts to which almost exclusively the payments of the participants came in. The light grey shaded areas represent the so-called 'internal' accounts. The direction of the arrows, the shape of the lines and the presentation of the figures show how the money 'travelled'.

D-2619



A line of thick dots indicates that the money went back and forth. A broken line of dashes indicates that the money went to the relevant 'internal' account, and a solid line shows that the money went from the relevant 'internal' account to the dark grey shaded accounts. The amounts in italics and the underlined amounts show the transfers of the relevant 'internal' accounts to the darkly shaded accounts. The amounts in parentheses show the transfers from the dark shaded accounts to the 'internal' accounts.

Bearing in mind that stated above, for example, from D-2619 the following comes to the fore:

From account a4946, US\$ 650,000 goes to account a0003; from account a0003, US\$ 519,000 goes to account a4946; from account a9740, US\$ 900,000 goes to account a0003; from account a0086, US\$ 3,037,000 goes to account a4946.

In total, during the investigation period an amount of US\$ 123,000,000 is booked back and forth between the accounts to which almost exclusively the payments of participants came in, and the so-called 'internal' accounts.

In addition, amounts were booked back and forth within the 'internal' accounts.

This is shown diagrammatically in D-2620. This overview shows how each balance of accounts was booked to the different 'internal' accounts. The direction of the amounts can be seen by the direction of the arrows. The shapes of the lines are different in order to make it easier to read the overview.

D-2620

For example, the overview shows that from account a0029 a total in bookings was made to the following accounts: US\$ 2,900,000 to account a0037;

US\$ 10,000,000	to account a9403;
US\$ 345,000	to account a0011;
and US\$ 305,000	to account a7903.

In total, overview D-2820 concerns US\$ 27,760,000 in 'internal' bookings.

The funds partially went back and forth over the various accounts, and partially they were spent as this is shown in D-2441. Some 'internal' accounts are used only for booking amounts back and forth. In the remainder of this official report, I will still get back to the use of a few 'internal' accounts.

The total of the 'internal' bookings mentioned in D-2619 and D-2620 is approximately US\$ 151,000,000. This is approximately 67% of the money received from the participants of US\$ 223,880,000.

It is unclear why these 'internal' bookings took place in this volume and why the payments for effecting actual expenditures were not done from the two accounts that were fed almost exclusively from the payments of participants. It is suspected that this method was used because Deborah C. Peck received a fee that was based in part on the amount of the sums transferred during a given period.

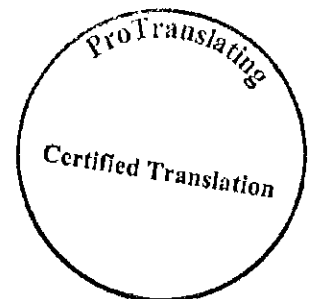
2.1.2.2. Accounts managed by others on Cyprus and in the United Arab Emirates (UAE):

The payment organization of Watershed LLC cum suis was not limited to accounts managed in the US by Deborah C. Peck. Part of the money transferred by the participants was transferred onward to accounts of Watershed LLC, Running2 Limited, Crystal Life International FZE, Romano SA and Zilwood SA. For the relationship of the suspects with the stated legal persons, I refer once again to the official report concerning the criminal organization: PV 1-pv.

This is shown diagrammatically in the overviews of D-2621 and D-2622.

In D-2621, the money trails from the accounts a4946 and a9740 to the accounts

D-2621, D-2622



on Cyprus and the UAE appears. For this overview, again, the direction of the amounts is shown by the direction of the arrows. The shapes of the lines are different in order to make it easier to read the overview. During the investigation period, approximately US\$ 12,716,000 was transferred to accounts on Cyprus and in the UAE.

In D-2622, the money trails from the 'internal' accounts to accounts on Cyprus and in the UAE is shown. This overview should be read in the same manner as D-2621. During the investigation period, from the 'internal' accounts, approximately US\$ 18,054,000 was transferred to accounts on Cyprus and in the UAE. The overview also shows that from the account in the name of Running2 Limited v1319, an amount of US\$ 2,000,000 was booked back to the 'internal' account a0037. I will come back to this transfer in paragraph: 2.2.2.4. of this official report.

In total, an amount of approximately US\$ 30,700,000 was transferred to the accounts of Watershed cum suis on Cyprus and in the UAE. This is approximately 13% of the US\$ 223,880,000, the amount received from the participants. From the accounts of Watershed LLC cum suis on Cyprus and in the UAE, various payments were made that are classified in the overview of D-2441. There were also a few 'internal' bookings made within the accounts on Cyprus and in the UAE. For a diagrammatic overview of these bookings, I refer you to D-2623. This shows that during the investigation period, an amount of approximately US\$ 317,000 and € 766,000 went to the various accounts of Watershed LLC cum suis on Cyprus and in the UAE.

D-2623

Together with the 'internal' bookings in the US, 80% of the amount received from the participants was transferred on to 'internal' accounts in the US, on Cyprus and in the UAE. It is unclear why these 'internal' bookings took place in this volume and why the payments for effecting actual expenditures were not done from the two accounts that were fed almost exclusively from the payments of participants.

2.1.3. The expenditures effected directly in relation to the policies:

2.1.3.1. The purchase of policies:

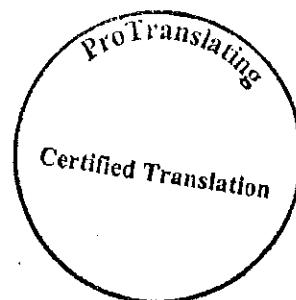
An important part of the products sold was the term life insurance policy that was paid out upon the death of the insured. These policies were purchased by Watershed LLC. During the investigation period more than US\$ 50,000,000 was paid on policies; reference is made here to D-2441. Here it should be noted that the greatest part of the purchases: 77%, was made from the same vendor. This was Reserve Holdings LLC in 2008 and Parcside Equity LLC in 2009. Of both legal persons, a person named P.E. Lian held the power of attorney. For more information on Parcside Equity LLC and P.E. Lian, I refer respectively to paragraphs 3.3.4.1. and 3.3.4.2. of the official report on the criminal organization: PV 1-pv.

For a distribution of the purchases over the years, I refer to D-2624. On the horizontal line one can see the years and on the vertical line the amounts in thousands of US dollars. In addition, a differentiation is made in purchasing: 'ink pol rp'; purchasing of policies from Reserve Holdings LLC or Parcside Equity LLC en: 'ink pol: purchasing of policies from others. The overview shows that in 2008 the largest amount was paid for the purchase of policies. This totalled approximately US\$ 19,400,000.

D-2624

From the overview: D-2625 one sees how the division of purchasing was concerning the products CLSF and BGIF. On the horizontal line the amounts are stated in thousands of US dollars. On the vertical axis one sees the years, and the bars that indicate the various products. Thus the overview shows that in 2008, mainly policies in the context of CLSF products were purchased. The total expenditure is approximately: US\$ 18,200,000.

D-2625



D-2626

The overview of D-2626 also shows which accounts were used for the payment of the policies purchased. In this overview the amounts on the horizontal axis are in thousands of US dollars. The vertical axis shows the accounts of Watershed LLC that were used. The different bars in the overview stand for the different years.

The overview shows that during the first years: 2007 to 2009 the accounts a4946 and a9740 were used to pay the policies that were purchased. A total of approximately US\$ 28,900,000 was paid via these accounts during this period. These accounts relate to the two accounts which are almost exclusively fad by the payments of the participants.

In addition, the overview of D-2626 shows that from 2010, especially the account a0052 is used to pay for the policies purchased from Parcside Equity LLC. The account a0052 is in the name of Parcside LLC.

D-2307

The criminal investigation reveals that Deborah C. Peck is the owner of Parcside LLC. However, all the money from account a0052 came from the other accounts of Watershed LLC. The payments that were made from account a0052 were not different from the payments that were made with other accounts before or during the use of account a0052. It is unclear why in 2010 an account in the name of Parcside LLC in the name of Deborah C. Peck was used for expenditures of Watershed LLC cum suis. Expenditures that had also already been effected from other accounts before that time.

The reason for the frequent purchasing of policies by Reserve Holdings LLC/Parcside Equity LLC is probably the transfers that this supplier made to several private accounts of suspect Moens. For example, suspect Moens received the following amounts during the investigation period:

On 17 February 2009 an amount of US\$ 10,000 into account: 17501 with the reference 'consultation';

On 25 February 2009 an amount of US\$ 90,000 into account: 17501, again with the reference 'consultation';

On 25 February 2010 an amount of US\$ 450,000 into account a9408; on 19 February 2010 an amount of US\$ 170,000 into account a9408 with the reference 'full final payment of fees forsinder (sic) case';

On 17 February 2010 an amount of US\$ 150,000 into account a9408 with the reference 'full payment of fees for jenogluck axa case'.

In total, the suspect Moens probably received US\$ 870,000 from Parcside Equity LLC in two private accounts during the investigation period.

Regarding the further intertwining of mutual relationships, I refer to paragraph 2.4.2.2. of this official report in which, among other things, it comes to the fore that Mr Lian, together with the husband of Deborah C. Peck, is director of a company in which the suspects Moens and Laan have invested money.

2.1.3.2. The premiums for the policies:

In addition to the purchase of these policies, they also had to be maintained by paying premiums to insurance companies. During the investigation period, more than US\$ 30,000,000 was paid on premiums.

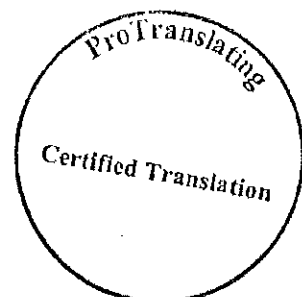
For this I refer to D-2441.

The overview on D-2627 shows the distribution of premiums among the various products. On the horizontal axis one can see the amounts in thousands of US dollars, and on the vertical axis the years. The different bars show the premiums paid for the relevant products. The overview shows that particularly in 2010 the largest amount was paid for insurance premiums. It is also noted that this increases steeply starting in 2007. In 2010 alone, nearly US\$ 13,000,000 was paid in premiums. The greatest share of the premiums is for the account of CLSF products.

D-2627

The overview of D-2628 reveals from which bank accounts the premiums were paid. This overview shows that the greatest share of the premiums paid

D-2628



was from account a4946. This totals approximately US\$ 18,400,000. In addition, a significant portion of the premiums was paid from the account a7903. Overviews D-2619 and D-2620 show that this account is fed by the accounts to which the participants almost exclusively made their payments and by a few 'internal' accounts.

2.1.3.3. The certificates of deposit:

Watershed LLC purchased so-called 'certificates of deposit' (CDs) from August 2008 to October 2010. These are savings certificates in the US with a fixed term. Watershed LLC purchased approximately US\$ 19,561,000 worth of CDs.

The purchase of these CDs was funded by the deposits of the participants.

In addition, in the period from November 2008 to February 2011, Watershed LLC sold approximately US\$ 19,803,000 worth of CDs. On balance, approximately US\$ 250,000 more was received than was spent on CDs. This surplus probably comes from the interest that is associated with the CDs. On average the interest on the stated amount of US\$ 250,000 is a percentage of 1.5%. Normally more is paid. At an interest payment of, for example, 4%, the return should be approximately US\$ 700,000. It is unclear whether there are still CDs open or whether payments have come in to other accounts than those that are known and have been investigated.

In the overview of D-2629 there is a diagram of the purchase and sale of the CDs per month. On the horizontal axis the months in the years 2008 to 2011 are listed. On the vertical axis the amounts in US dollars are specified: negative for the investments in CDs and positive for the payments from CDs.

D-2629 The black line below the horizontal axis shows the investments in CDs in the course of time and the medium grey line above the horizontal axis represents the sale and the release of the CDs. The overview of D-2629 shows that initially more CDs were purchased than were sold; especially in the months August 2008 to January 2009, CDs were purchased. There are also peaks in purchase over the months: April 2009, September and October 2009; December 2009; April 2010 and August 2010.

The sale of the CDs took place in particular in December 2008, November 2009, July 2010 and from November 2010 to February 2011.

This is particularly evident in the overview of D-2630. This overview focuses on the status of the value of the CDs over the course of time. This concerns the balance of CDs as per a given month. Here one can also see that the value of the CDs fluctuated over the course of time. There was an increase in the period August 2008 to January 2009, then a small decrease to April 2009, after which the amount again increased and then decreased to September 2009. Finally the level of the CDs peaked in September 2010.

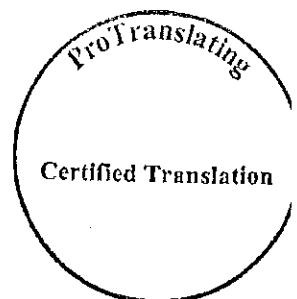
D-2630 The greatest decrease occurred in January 2011. At that time, approximately US\$ 11,100,000 worth of CDs was sold, and eventually the balance of CDs became zero.

In the overview in D-2631, it is shown which bank accounts were used at the purchase and sale of the CDs. The arrows of the lines indicate the flow of money; the CDs were purchased from the accounts to the left of the overview. The proceeds from the CD's ended up in the accounts on the right side of the overview.

The sale of CDs took place in particular in November 2010 to February 2011. During this period, US\$ 13,700,000 worth of CDs was sold.

D-2631 For a diagrammatic overview of what then happened with the proceeds of the sale of CDs, I refer you to D-2611. This overview shows that one part of the returns was transferred by means of various transfers, in the amount of US\$ 2,340,000, to accounts of Watershed LLC in the US.

D-2611



These accounts are managed by Deborah C. Peck.

Additionally, the review on D-2611 shows that the difference of US\$ 11,363,000 ended up, by means of various transactions, at the following goals:

Into account v1319 of Running2 Limited for a total of US\$ 9,200,000;

Into account: 1314 of BGIF BV for a total of US\$ 1,481,000; to payments for the joint account of suspects Laan and Moens; US\$ 35,000;

- To QI BvbA: US\$ 147,000.

Then one can see on the overview on D-2611 that the money that was transferred to Running2 Limited was spent in the following manner:

For payments to and transfers into accounts of the own organization, US\$ 2,700,000

Into account: 1314 of BGIF BV: US\$ 2,320,000

To a (as yet) unclaimed account in the US with

the reference 'for insurance premiums to be paid': US\$ 1,580,000

For payments for the joint account of the suspects Laan and Moens: US\$ 1,896,000

To expenditures on behalf of the suspect Moens: US\$ 685,000

As far as the payments for the joint account of the suspects Avenue and Moens and for the expenditures on behalf of suspect Moens are concerned, I refer the reader to paragraph 2.4 of this official report. This involves money that was spent on behalf of the suspects.

In total, from the proceeds of the sale of the CDs approximately the amount of US\$ 3,116,000 was spent on behalf of the suspects Moens and Laan. This amounts to approximately 22% of the total receipts from the sale of CDs in the period from November 2010 to February 2011.

In a telephone conversation dated 20 January 2011 between the suspects and Moens and Laan, suspect Moens said that he had sold the CDs to free up money for the payment of the boats. The investigation revealed that this involves the construction of three seaworthy sailing catamarans. I refer in this regard to paragraph 2.4.2.1. of this official report.

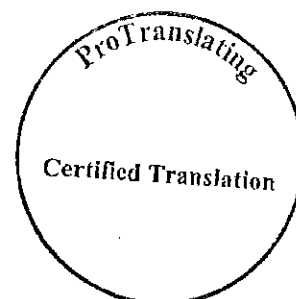
From the proceeds of the CDs, US\$ 2,431,000 was spent for the joint account of the suspects Laan and Moens. Of this, a total of US\$ 1,316,000 was paid for the construction of the ordered sailing catamarans.

O-1247

It is not clear (yet) why securities that were readily saleable and generated a fixed income were sold and of which then a part of the profit was used to invest in seaworthy sailing catamarans. This type of asset is considerably more difficult to sell and promises no fixed yield as does such a security as a certificate of deposit.

The money that was eventually credited to the account of BGIF BV was used to pay interest to the participants. In total this concerns approximately US\$ 3,800,000.

This amounts to approximately 28% of the total receipts from the sale of CDs in the period from November 2010 to February 2011.



2.2. The payments to Provident Capital Indemnity Ltd and payments to participants in connection with the release of products:

2.2.1. The payments to Provident Capital Indemnity Ltd. (PCI):

An important part of the products sold by the suspect QI cum suis was the counter-insurance that PCI issued by means of a so-called 'bond'. By means of these 'bonds' of PCI, the participant was led to believe that a product was guaranteed to be paid out after a certain period. PCI requested a payment by 'bond' from Watershed LLC.

This fee was paid during the period from 18 June 2007 to 12 October 2010 into account: 3643824 in the name of Desarrollos Comerciales Ronim SA (Desarrollos) in San Jose in Costa Rica.

Desarrollos is connected as management and administration office with PCI. In this context I refer to AH-025 that contains a description of PCI.

In addition, the fee for the issue of the 'bonds' from 24 February 2009 to 10 July 2009 was paid into account: 3953842410717 in the name of Citibank Global Markets Inc. in Miami.

In total, Watershed LLC paid US\$ 17,535,000 to PCI as compensation for the counter-insurances that were established. This concerns approximately 8% of the total amount received from the participants.

D-2441

For an overview of the share of the various receiving accounts in the premiums paid by Watershed LLC to PCI, I refer to D-2632. In the overview it is shown per slice of pie what total amount in US dollars went to which particular account. For example, US\$ 1,588,000 was paid into the account with the number 3953842410717. It is, however, unclear why during a short period payments went to the stated account of Citibank Global Markets Inc. in Miami.

D-2632

Notwithstanding this, there were not only payments by Watershed LLC to PCI for the 'bonds' that were obtained. For an overview of the specific types of expenditures, I refer you to P-2633. In this overview, the total amounts in thousands of US dollars are shown on the horizontal axis. On the vertical axis we see the different types of expenditures by Watershed LLC to PCI.

D-2633

Here, in the expenditures for the 'bonds' of PCI, I have differentiated between expenditures for the payment of 'bonds' for CLSFs: 'cis'; for BGIFs: 'bgi', and where it is not known for what type of expenditure the bonds were used: 'cis or bgi'. I also differentiated in terms of the expenditures that were not intended for the acquisition of 'bonds', namely the difference in the expenditures in the context of the Mittman policy: 'mittman', the various expenditures of PCI: 'divers uitg' and the loan issued in January 2011 from an account of Running2 to PCI: 'loan'. The various bars specify the different years.

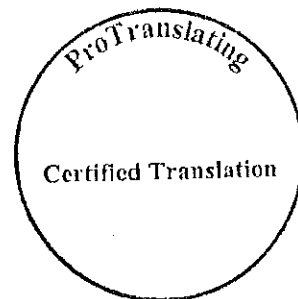
For example, in 2009 an amount of US\$ 400,000 went to PCI in the context of 'mittman'. For a further explanation of this issue, I refer to AH-019 in which the findings on the payment of the Mittman policy are described.

For an overview of the bank accounts used by Watershed LLC cum suis, I refer to D-2634. This overview contains the total amounts in US dollars on the horizontal axis and the various bank accounts on the vertical axis, with the bars indicating the different years.

For example, it is shown in the overview of D-2634 that in 2007 mostly payments were made from the account a1806 and from account a4946. That in 2008 in particular account a4946 and account a9740 were used and that from 2009 only account a0037 was also used for payments to or in relation to PCI.

D-2634

The payments that were made from the account v1319 of Running2 Limited concern a loan to PCI in the amount of US\$ 800,000. This amount was transferred in two payments of US\$ 400,000 in January 2011 to the account of Desarrollos. This took place just before the arrest of Mr Vargas, director/shareholder of PCI. Desarrollos is associated as management and administration office with PCI.



In this context I refer to the PV 1-pv concerning the criminal organization and to AH-025 where the findings concerning PCI are described.

The account a0037 was used starting in September 2009 for making payments to PCI instead of directly to the accounts named in D-2632. The name on account a0037 is: 'Premium Reinsurance Reserve Account'. Partly in view of AH-021, in which the findings concerning the payment of the Hamilton policy are described and D-1037, the account was probably used for payments within the context of the relationship with PCI.

D-1037

In D-1037 it is shown that on 10 February 2010 at 14.39 hours, Deborah C. Peck sent an email to Minor Vargas of PCI (with a copy to the suspect Moens at his private email address) enclosing a draft DMD joint venture agreement. This agreement between Dennis Moens, Minor Vargas and Deborah C. Peck comprised the start of a joint venture to have the 'RESERVE' attorney escrow account managed by Deborah C. Peck. This joint venture was intended to monitor the bank account into which the funds for the counter-insurance on behalf of the beneficiaries of the CLSF and BGIF trusts were 'reserved'. In the agreement it was also agreed that Deborah C. Peck would insure the capital in this bank account. All parties shared the net proceeds proportionately (1/3). The account referred to in this email is probably a0037.

For an overview of the source(s) from which account a0037 is fed, I refer you to D-2635. In total, in the period from 31 July 2009 to 4 April 2011, US\$ 23,314,000 was booked into the account a0037. D-2635 gives an overview of the sources of this money. On the horizontal axis one can see the amounts in thousands of US dollars, and on the vertical axis the various bank accounts. The bars indicate the bank accounts, whereby the amounts in figures indicate what total amount of the relevant bank accounts were booked to the account a0037. For example, from account a0086 an amount of US\$ 2,101,000 was transferred to account a0037.

D-2635

For an overview of the expenditures from the account a0037, I refer you to D-2636. The different slices of the pie show the various items of expenditures and the figures in the pie slices indicate the total amount spent in thousands of US dollars. The legend and the pie slices should be read clockwise.

The pie slice with the reference 'D.C. Peck' begins at the top and equals US\$ 285,000. Next comes the slice: 'PCI bonds' and this equals US\$ 5,350,000.

For example, for legal claims against PCI in the US, an amount of about US\$ 6,140,000 is paid from the account a0037, and in payments of products to participants the sum of US\$ 6,000,000 is paid from account a0037.

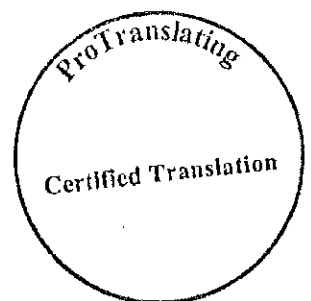
D-2636

This concerns the payments for the so-called Hamilton policy and the Duhl policy. I will get back to these payments in the next paragraph.

2.2.2. The payments to participants in relation to the release of products:

As I already said before, the counter-insurance of PCI was an important part of the products to be sold of the suspect QT cum suis. This counter-insurance was to guarantee that if an insured person was still alive at the end of the term of the fund, there could nonetheless be a payment to the participants. PCI then took it upon itself to make the payment against a certain fee in return for acquisition of the himself to for a price to pay to obtain the benefit of the not yet released term life insurance.

During the investigation period it was noted that in any case the payment to participants took place for four products. The money trails investigation showed that it was not PCI that made these payments, but that they came from the accounts of Watershed LLC under the management of Deborah C. Peck.



D-2441

The money that was needed for these payments ultimately came from the accounts into which the participants made their deposits. The payments were essentially made with funds that the participants themselves had invested. This is an important feature of so-called 'Ponzi fraud'. In total, approximately US\$ 16,514,000 was paid out to participants. This is about 7% of the total amount paid by participants.

D-2444

In this paragraph I will describe the money trails in relation to these payments. For a diagrammatic overview of the payments, I refer to D-2444. In the overview, arrows show the money trails from the accounts into which the participants made their payments to the eventual payments. To the extent that payments are also described in other official transactions, I refer to these and I will only describe the money trails. I will not append the relevant official transactions to this official report. Three accounts were mainly used for the distribution of payments. One account, namely a0037, is addressed in paragraph 2.2.1. For the diagrammatic overviews of this account I refer to the appendices attached to that paragraph: D-2635 and D-2636, from the account a0037, US\$ 6,000,000 was paid out.

The second account used to make payments was account a9403. This account is discussed in paragraph 2.2.2.3. where the money trails relating to the payment of the Mittman policy is described. Finally, in particular the account a0029 is used in the creation of two payments to the participants. Bookings into and from this account took place before the payment of the Hamilton policy and the Mittman policy.

The account a0029 bears the name 'Deborah C Peck, BGI 8' and was used from 5 May 2009 to 28 January 2010. At that time, 28 January 2010, an amount of US\$ 10 million was transferred to account a9403 to make the payment in relation to the LSF I: the Mittman policy.

I will get back to this in the following paragraph: 2.2.2.3.

The overview on D-2638 shows how the account a0029 was fed during the period from 5 May 2009 to 28 January 2010. During this period a total of US\$ 18,972,000 was received in this account.

The overview of D-2638 shows that a small part of the money received: US\$ 150,000 comes from an unknown source. The remainder is known: an amount of US\$ 1,774,000 comes from account a4946 and an amount of US\$ 17,048,000 comes from account a9740.

Both of these accounts received the payments of participants.

D-2638

The overview of D-2639 shows how the expenditures from account a0029 were distributed. The overview shows through so-called pie slices what amounts in thousands of US\$ were spent on which items.

The overview should be read clockwise, whereby a sum of US\$ 880,000 was spent for the purchase of CDs, a sum of US\$ 933,000 for the maintenance of the organization until finally a sum of US\$ 1,576,000 was used for the purchase of sustainable assets for the suspects Laan and/or Moens. As far as the payments are concerned for the joint account of the suspects Laan and/or Moens, I refer the reader to paragraph 2.4 of this official report. This involves money that was spent on behalf of the suspects Moens and/or Laan.

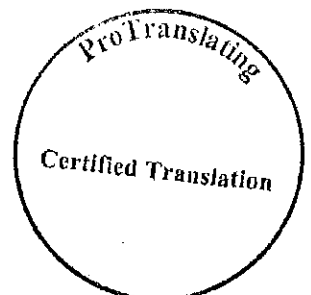
D-2639

The overview on D-2639 also shows that a total of US\$ 10,000,000 was transferred to account a9403 for the payment of the Mittman policy and an amount of US\$ 2,800,000 to account a0037 for the payment of the Hamilton policy.

The overview on D-2640 then displays the course of the account balance of a0029 over the period during which the account was active. This period is shown on the horizontal axis of the overview.

The overview shows that the balance of account a0029 slowly increased from 4 May 2009 to 15 September 2009 to an amount of US\$ 6,011,192. Subsequently, on 15 September, the aforementioned amount of US\$ 2.8 million was transferred to account a0037 and the balance of the account dropped to an amount of US\$ 300,282 by 6 October 2009.

D-2640



Then the balance of the account rose again to an amount of US\$ 10,500,039 in 26 January 2010. On 28 January 2010 the balance of the account was US\$ 38.70 after a transfer of US\$ 500,000 on 27 January 2010 to account a4946 and a transfer of US\$ 10,000,000 on 28 January 2010 to account a9403. After 28 January 2010 there were no more bookings into or from account a0029. The increase of the balance of the account during the period from 6 October 2009 to 27 January 2010 was almost entirely financed by transfers from account a9740. During this period a total of US\$ 9,327,236 came from this account.

This amount came about by means of the following transfers: 16 amounts of US\$ 500,000, one amount of US\$ 1,000,000, one amount of US\$ 250,000 and two amounts of US\$ 288,618. Finally, the last amount of US\$ 863,790 came from account a4946. Both accounts were almost exclusively fed by payments from participants.

2.2.2.1. Payment in relation to CLSF VI: Rifkin policy:

In AH-007 the payment in relation to the product CLSF VI is described. This involves a fund on which, according to the sales records of QI BV, only two participants registered, and received their investment back in 2007. Both amounts were debited to the account a4946. On 14 November 2007, an amount of US\$ 349,125.00 was deducted in favour of Waltmans and on 3 December 2007 an amount of US\$ 348,333.00 in favour of Panen.

In addition, from the account a4946, on 28 November 2007 an amount of US\$ 124,770.00 was deducted in favour of Schaap. Despite the fact that Schaap was not registered as a participant in CLSF VI, this payment nonetheless took place in relation to participation of Schaap in this fund. Schaap received a payment of US\$ 219,000 into account a1806 on 12 July 2007. Schaap was also registered as participant in CLSF IV for an amount of US\$ 300,000. Not only was the amount paid US\$ 81,000 less than the assumed participation, but net Schaap paid for a stake in CLSF IV in the amount of US\$ 300,000 the sum of US\$ 94,230.

Given the date of payment to Schaap and the fact that in the months of November and December 2007 no further refunds from account a4946 were made to participants, probably the difference that Schaap paid additionally is compensated by the payment for the investment in CLSF VI on 28 November 2007.

In total probably US\$ 822,000 was repaid on the investment for the so-called Rifkin policy. This was refunded from account a4946.

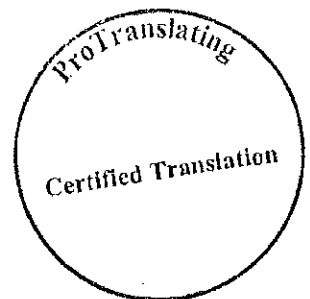
This is one of the three accounts into which the participants made their investments.

2.2.2.2. Payment in relation to LSF V: Hamilton policy:

In AH-007 the payment in relation to the product LSF V is described. The money trails investigation shows that on 17 September 2009 the sum of US\$ 4,000,000 was debited to account a0037 with the description: 'atm debit wire transfer 001 127'. It is (still) unknown who the ultimate recipient of this amount was. Documents D-0689 and D-0691 reveal that the aforementioned amount of US\$ 4,000,000 was probably used to pay the participants in the product LSF V.

Regarding the account a0037, I refer to paragraph 2.2.1 and the related documents. The amount of US\$ 4,000,000 debited on 17 September 2009 was financed by an internal transfer dated 31 July 2009 of US\$ 1,200,000 from bank account a4946 and on 15 September 2009, US\$ 2,800,000 from bank account a0029.

D-0689, D-0691



Bank account a4946 is one of the three accounts that were used almost exclusively for the participants to make their deposits. For a diagrammatic overview of that described above, I refer you to D-2444.

D-2444

Regarding the account a0029, I refer to the beginning of paragraph 2.2.2 and the related documents. From the investigation into this account, it is noted that the transfer dated 15 September 2009 amounting to US\$ 2,800,000 comes from account a9740 or account a4946. Both accounts were used by participants to receive the deposited amount and were almost exclusively fed by that deposit.

2.2.2.3. Payment in relation to LSF I: Mittman policy:

In AH-007 the payment in relation to the product LSF I is described. The money trails investigation shows that in the statement over the first half of February 2010 of account a9403, payments were made for a total of US\$ 9,691,944. These payments are made for the payment of the Mittman policy. I append an overview of these payments to this official report as D-2641. For a diagrammatic overview of the money trails that led to this payment, I refer you to D-2642. Account a9403 has the name: 'Deborah C. Peck ESC Acct Attorney Trust Account 3' and had a beginning balance of 0 on 27 January 2010. On 28 January 2010, an amount of US\$ 10,000,000 was received in account a9403. This amount came from account a0029.

D-2641

D-2642

Eventually the payment for the Mittman policy was paid from this amount. As for a description of the account a0029, I refer to the beginning of paragraph 2.2.2. From the money trails investigation it was noted that the greatest part of the transfer of US\$ 10,000,000 comes from account a9740.

A total of US\$ 9,327,236 came from this account. The final amount of US\$ 863,790 came from account a4946.

These accounts were used to receive the payments of the participants and were fed almost exclusively by means of these payments.

Once the payments in the context of the Mittman policy had taken place, there was a remaining balance of US\$ 308,056. In addition to the payments in the context of the Mittman policy, on 24 February 2010 account a9403 was only still used for the purchase of an aeroplane for US\$ 1,960,000. This aircraft was a Beechcraft 1900d with the serial number: UE-70 and the initials PH-RNG / ZS-PZH. The balance of the money needed to pay for the aeroplane was brought together as follows:

An amount of USD\$ 1,000,000 came from account a9740; an amount of US\$ 500,000 came from account a4946;

An amount of USD\$ 154,000 came from account a9408.

The latter account was the private account of suspect Moens.

For an overview of the course of the account balance of a9403, I refer to D-2643.

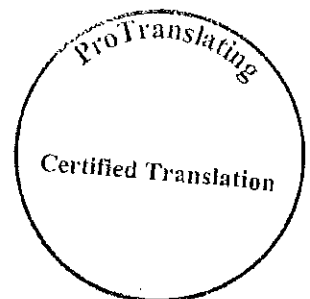
On the horizontal axis one can see the days in the period of 28 January to 24 February 2010, and, on the vertical axis, the amounts in US dollars.

The black line represents the course of the account balance over a9403 in the aforementioned period. The overview shows that the payment of the Mittman policy took place over six days. The last day on which payments were made was 16 February 2010.

In the meantime, namely on 12 February 2010, the balance of account a9403 increased. That was caused by the receipt from account a9740 of US\$ 650,000.

Subsequently, after 16 February 2010 the balance of account a9403 increased step by step, until the payment following the purchase of the aircraft on 24 February 2010. The balance of account a9403 was then: US\$ 276.

D-2643



Thereafter, in July 2010 and August 2010 some small 'internal' bookings were still made via this account. The account was closed on 14 March 2011.

2.2.2.4. Payment in relation to LSF II: Duhl policy:

In AH-023 the payment in relation to the product LSF II is described. The money trails investigation shows that in that context, on 13 or 14 January 2011 payments were made to participants from account a0037 for a total of US\$ 2,000,000.

D-2644
D-2444

I append an overview of these payments to this official report as D-2644. For a diagrammatic overview of the money trails that led to this payment, I refer you to D-2444.

The overview of D-2444 reveals that the payment of the money from the Duhl policy was made possible by the receipt on 12 January 2011 of US\$ 2,000,000 into account a0037. This amount came from account v1319 in the name of Running2 Limited and had the reference 'premium payments darmanyany policy, linton policy, elliot policy, joherpolicy, guberman policy'. The corresponding wire transfer is appended as D-2502 to this official report.

D-2502

Account v1319 in the name of Running2 Limited received three payments in the period of 4 January to 11 January 2011 in the total amount of US\$ 2,900,000.

2011 The following amounts were received:

On 4 January 2011 from account a0102: an amount of US\$ 2,000,000; on 4 January 2011 from account a4946: an amount of US\$ 600,000; on 5 January 2011 from account a9740: an amount of US\$ 300,000; noting that all three of these transfers had the same description, namely: 'Proceeds BGI 17 to 20 and Cls139/40\ In the period from 4 January 2011 to the transfer of US\$ 2,000,000 on 12 January

2011 by means of 5 debits, a total of US\$ 1,050,000 was booked to other destinations from account v1319. Two debits each equalled US\$ 400,000, two each US\$ 50,000 and one US\$ 150,000.

Probably the transfers from the account a4946 on January 4 and from the account a9740 on 5 January of a total of US\$ 900,000 were used for the four transfers of two times US\$ 400,000 and twice US\$ 50,000.

The deficit of US\$ 150,000 was probably financed with a balance in account v1319 on 4 January 2011.

Considering the foregoing and considering the corresponding size of the received and debited amount of US\$ 2,000,000, it is probable that the amount of US\$ 2,000,000 that was transferred on 4 January 2011 from account a0102 to account v1319, was intended for the transfer on 12 January 2011 of US\$ 2,000,000 to account a0037 for the payment of the Duhl policy.

If this is not the case, then at least a portion of the amount of money that led to the payment of the Duhl policy came from the accounts a4946 or a9740.

On 4 January 2011 an amount of US\$ 600,000 was received from account a4946, and on 5 January 2011 an amount of US\$ 300,000 was received from account a9740.

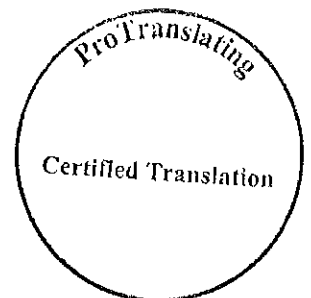
Both are the accounts to which the participants almost exclusively transferred their payments.

Assuming that the transfer dated 12 January 2011 to account a0037 ultimately comes from account a0102, I note the following. Account a0102 was opened on 5 April 2010 with the beginning balance 0. The account had the name 'CDS'. The account was used from 5 April 2010 to 8 February 2011.

For an overview of the course of the account balance, I refer to D-2646. On this overview, the various transactions are shown in rows, whereby the headings above the rows indicate what the data in a field represent. This information is stated in columns under the column headings.

For example, under the column heading 'bkrekening' is listed the bank account of which the transactions are stated, in this case a0102.

D-2646



Under the column heading 'val dat' are listed the currency dates and under the heading 'transaction' are the amounts of the different transactions. Where an amount is indicated with a minus, there is a debit and otherwise there is a credit. Under the heading 'balance', the balance of the account is listed as at the end of the currency date, in the same row.

The booking from account a0102 into account v1319 dated 4 January 2011 is stated in the row with number 31. Stated as balance in the row is an amount of:

US\$ 119,735.00. In row 14, dated 9 August 2010, it is stated that the balance on that date was US\$ 200,161.00.

This was insufficient to be able to transfer US\$ 2,000,000 on 4 January 2011 to account v1319 of Running2 Limited. Especially because in row 18 and row 19, two debits are mentioned totalling US\$ 1,900,000.

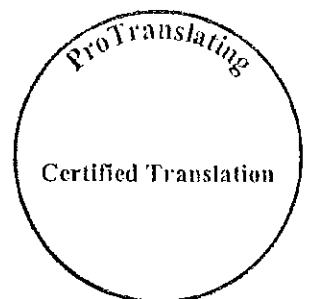
In rows 15 to 17 and in rows 20 to 30 it is shown how the balance of account a0102 grew to an amount of US\$ 2,119,735 on 3 January 2011 with the understanding that on 17 December 2010 another debit had taken place in the amount of US\$ 200,000. This amount is listed in row 28 and was transferred to account a0052. This data reference can be found under the column heading 'contra account'.

The 'contra accounts' of the bookings of the rows 15 to 17 and the rows 20 to 30 can all, with the exception of rows 28 and 29, be characterised as account a9740. The 'contra account' of the recognized increase of row 29 is account a4946 and amounts to US\$ 150,000. This concerns a total amount of US\$ 4,019,574 in recognized increases.

Assuming that the expenditure of rows 18 and 19 is partially funded with the balance on row 14 on 9 August 2010 of, rounded off, US\$ 200,000, for the period to 4 January 2011 there remains a total debit to the account a0102 of US\$ 3,950,000. This amount consists of the amount of US\$ 200,000 minus US\$ 1,900,000 minus US\$ 200,000 added to the transfer to account a0052 of US\$ 250,000 and the transfer to the account of Running2 Limited of US\$ 2,000,000.

Given the foregoing, it is very likely that the aforementioned amount of US\$ 2,000,000 was established by means of credit entries to the account a0102 from the account a4946 or account a9740, with the understanding that the share of account a4946 was very limited in the recognized increases.

In any case, both accounts a4946 and a9740 were used to receive payments from the participants. It is therefore very likely that the payment of the Duhl policy was made with money that ultimately came from the participants to pay their deposit.



2.3. The expenditure for establishing and maintaining the organization:

As I mentioned in paragraph 2.1.1., during the investigation period most likely an amount of US\$ 223,800,000 was received from participants. This followed the sale of various products by QI cum suis.

An organization had been established with respect to the sale of the various products. In this paragraph I will, on the one hand, explain how the money trails for establishing and maintaining the organization went. On the other hand I will broadly outline which expenditures were effected for this.

2.3.1. The money trails for the establishment and maintenance of the organization:

The sale of the products was done by QI cum suis. For this purpose, an organization was established in the Netherlands and some other countries of Europe; the most important 'branch' of QI cum suis was located in Belgium. Most of the money invested by the participants came from Belgian participants. For the manner in which the administration of QI cum suis was carried out, I refer to AH-028.

The participants paid their deposits almost exclusively into two accounts that were managed by Deborah C. Peck. These were accounts in the US, specifically account a9740 and account a4946. Establishing and maintaining the organization involved certain expenses.

Part of these expenses were paid directly from the accounts of Watershed LLC cum suis in the US and on Cyprus and in Dubai. Another part of the expenditures were effected in the Netherlands and Belgium. For an overview of the countries from which the expenses for QI cum suis were paid, I refer to D-2647.

D-2647

On the overview, it is stated per slice of the pie from which countries expenditures took place, at which time I will mention that the amounts stated are in thousands of US dollars. From the overview on D-2647, for example, it is shown that during the investigation period, on behalf of QI cum suis payments came from the US amounting to approximately \$ 18,113.000.

From the diagrammatic overview of D-2647 it is also noted that QI cum suis effected direct expenditures in the amount of US\$ 26,744,000. This was made possible by allowing money from the US, Dubai and Cyprus to flow back to the Netherlands. For an overview of the bank accounts of this money trails from the US to the Netherlands, I refer to D-2648.

This overview diagrammatically shows from which accounts of Watershed LLC in the US money was transferred to the accounts of QI cum suis. The direction of the money trails is indicated by the arrows and the total amounts are in US dollars.

D-2648

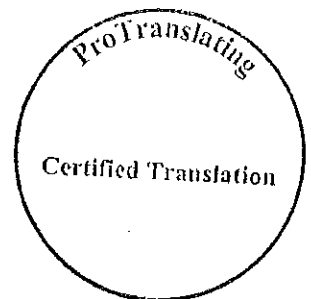
For example, from account a4946, US\$ 1,668,000 was transferred to the accounts of BGIF BV. In the same accounts of BGIF BV, there is a total of US\$ 4,338,000 originating from account a9740. From the accounts of BGIF BV, interest payments are made to the buyers of BGIF products. I will come back to this in paragraph 2.3.2. of this official report. A total of US\$ 13,590,000 was paid in interest. A significant portion of the interest payment: US\$ 6,006,000 was directly derived from the two accounts which are almost exclusively fed by payments from participants. In total, an amount of approximately US\$ 21,000,000 was transferred from the accounts of Watershed LLC in the US to QI cum suis.

D-2649

Additionally, money from the accounts of Watershed LLC cum suis on Cyprus and in Dubai was transferred to QI cum suis. For a diagrammatic overview of this money trails, I refer you to D-2649.

This overview diagrammatically shows from which accounts of Watershed LLC cum suis in Dubai and on Cyprus money was transferred to the accounts of QI cum suis.

D-2649



The direction of the money trails is indicated by the arrows and the total amounts are in euros. The overview shows that, especially from the accounts of Running2 Life Limited and Crystal International FZE, funds were transferred to QI cum suis.

Thus, for example, € 2,819,000 goes from Crystal Life International FZE to the aforementioned BGIF BV. For Running2 Limited, the amount is € 1,612,000. In total, for all legal persons this involves the sum of € 4,543,000. At a rate of 1.38 this amounts to US\$ 6,269,000.

The total in US\$D that QI cum suis received from Watershed LLC deviates somewhat from the total of expenditures in US\$ that QI cum suis effected. The difference is because, in addition to the regular expenses of QI cum suis, there have been various income and expenditures that can be categorised in direct relation to the suspects. These are included in the calculations that form the basis of paragraph 2.4. of this official report.

From the foregoing it appears that the money trails to QI cum suis came from the deposits of the participants. These deposits came in almost entirely in two accounts in the US. Then, there were expenditures directly from accounts in the US and accounts in Dubai and Cyprus on behalf of the establishment and maintenance of the organization of QI cum suis.

In addition to this there were also expenditures from accounts under management by QI cum suis. These accounts were fed from various accounts from the US, Dubai and Cyprus which are managed by different legal persons. These legal persons were Watershed LLC, Crystal Life International FZE and Running2 Limited.

It is (still) unclear why the money trails went via these accounts and legal persons. It is also (still) unclear why the money trails was not directly derived from the two accounts into which the participants have made their deposits. The accounts of Watershed LLC in the US were managed by Deborah C. Peck. Suspect Moens commissioned an agent to manage the accounts in Cyprus and Dubai. In Dubai this involved a person named: K. Kapoor.

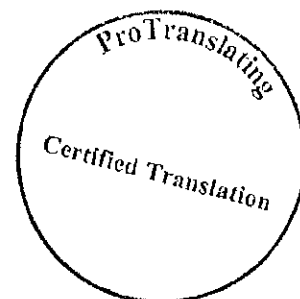
2.3.1. The expenditures for establishing and maintaining the organization:

In D-2441 the expenses for maintaining the organization are stated. In total, this involves US\$ 32,625,000. Converted, this is € 23,644,000. This involves the expenditures other than the payments of HRM Lawyers BV. Because of the relationship of the suspect Blom with HRM Lawyers BV, I specified the expenditures to HRM Lawyers BV separately. That the suspects Moens and Laan also made this distinction is shown in paragraph 3.1.1. of the PV 1-pv concerning the criminal organization. Insofar as this is important for purposes of understanding, I will explain a few of the expenses in this paragraph.

In the overview of D-2441 it is stated that an amount of US\$ 2,005,000 was paid in relation to Watershed LLC. This amount was paid from the accounts of Watershed LLC in the US. The majority was for payment of services in the field of legal assistance and financial advice. This totalled US\$ 1,293,000. The remaining amount was spent on various matters.

Also stated in the overview of D-2441 is a net amount of US\$ 2,900,000 of which it is (still) unknown for what purposes these expenditures were effected. This involves the netting of a total revenue of US\$ 1,380,000 and a total expenditure of US\$ 4,280,000. There may be more clarity about this later in the investigation.

There were also expenditures by and for QI cum suis. In D-2441 it is stated that with respect to QI, expenditures were effected amounting to US\$ 14,374,000 or € 10,416,000. These are expenditures particularly effected from bank accounts of QI cum suis. A small part was paid by the bank accounts in the US, Dubai and Cyprus.



From 2010, the bulk of the costs were borne by AD Consultancy BV. From that time, this legal person took on the role of back office for QI cum suis. The account(s) of AD Consultancy BV are not (yet) included in the money trails investigation. I did, however, include the transfers from the bank accounts of Watershed LLC cum suis from the US and Dubai to AD Consultancy BV in the 'expenditures on behalf of QI BV'. This involves an amount of US\$ 716,000. These expenditures are included in D-2650 in the category: 'Miscellaneous'.

In the overview of D-2441, the total of expenditures is stated for the commissions paid out with regard to QI BvBA. These commissions were paid as remuneration for the sale of the products in Belgium. This amounts to US\$ 8,716,000. These expenditures were effected particularly by Watershed LLC in the US. Converted this amounts to € 6,316,000.

Payments were also made from the accounts of QI cum suis in relation to the establishment and maintenance of the organization of QI cum suis in Belgium and Spain. These are included in the aforementioned amount of US\$ 14,374,000.

All in all, this involves a total of US\$ 23,090,000 that was paid in different countries from various accounts. This is about 10% of the total amount invested by participants.

For a specification of a large proportion of this total, namely US\$ 14,374,000, I refer to D-2650. In this overview, the expenditures in US dollars in thousands are shown on the horizontal axis, and the different entries of the expenditures are shown on the vertical axis. For example, under 'miscellaneous' an amount of US\$ 3,081,000 is shown and it is (still) unknown to what expenditures of US\$ 1,067,000 relate.

D-2650

From the review on D-2650 it is noted that an amount of US\$ 6,055,000 was spent for the purpose of establishing and maintaining the sales department. Additionally there were expenditures for selling the various products. Part of the expenditure was effected by a company in which the suspect Laan has an interest of nearly 5%. This concerns the company called: To be complete BV. Up to 9 February 2010, converted approximately US\$ 435,000 was paid by QI cum suis to To be complete BV.

The total sales costs amount to about 3% of the amount invested by the participants.

PV 1-pv

For an overview of the sales costs per country, I refer you to D-2651. In this overview each slice of the pie shows the expenditure per country. This concerns the expenditures by and for QI cum suis. For example, within the Netherlands context the amount of US\$ 3,187,000 was spent and for the Belgian organization the amount of approximately US\$ 2,464,000. For the manner in which the foreign branches of QI cum suis are set up, I refer to paragraph 3.1.5. of the PV 1-pv on the criminal organization.

D-2651

As I already mentioned earlier, in the overview of D-2441 there is an amount of US\$ 8,716,000 for payments to persons who were involved in the sale of the products of QI cum suis in Belgium. In total, the following was paid:

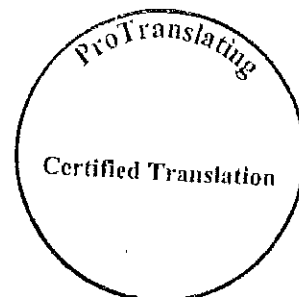
To Mr J. Appel, an amount of approximately US\$ 1,244,000;

To Fides Financial Services SA (Fides) an amount of approximately US\$ 7,218,000; to Ianus Financial Service BvBA (Ianus) an amount of approximately US\$ 254,000.

Mr J. Appel was responsible for selling the products of QI cum suis in Belgium and Luxembourg. From paragraph 3.3.5.4. of the PV 1-pv, we see that he was also the signature entitled person of the aforementioned legal persons Fides and Ianus. He was also directly or indirectly entitled to the commissions paid. In total this involves US\$ 8,717,000. This is 4% of the total money invested by the participants.

Regarding the amount of the personnel costs, I refer to D-2650. The overview shows that during the investigation period, US\$ 379,000 was paid in personnel costs. It should be noted that this concerns the personnel costs of QI BV.

D-2650



From 2010 onward, however, the bulk of the personnel costs were borne by AD Consultancy BV. The money trails within this legal person has not (yet) been included in the investigation.

I did, however, include the transfers from the bank accounts of Watershed LLC cum suis from the US and Dubai in the 'expenditures on behalf of QI BV'. It is likely that a large part of the personnel costs are included in the category, 'Miscellaneous'.

In the heading: 'to employees/clients', on D-2441 an amount of US\$ 1,760,000 is mentioned. This concerns payments to individual persons rather than payments as salary or as remuneration for services rendered. This involves, in addition to a few persons that received relatively small amounts, in particular the following persons that received the following amounts in US\$, partially converted and rounded off:

I. van den Berg (employee) in addition to her salary: US\$ 155,000;

B.M. Vajta the amount of: US\$ 475,000;

Libertas America Inc / Shad Ellison the amount of: US\$ 1,030,000.

With respect to the persons of van den Berg and Vajta, I refer respectively to paragraphs 3.3.1.8. and 3.3.4.5. of the official report 1-pv on the criminal organization: It is unclear why the above persons were paid these amounts.

It is also stated in the overview of D-2441 that a total of US\$ 2,870,000 was paid in commission. This was paid almost entirely from the accounts of Watershed LLC in the US. The commission was paid to 28 persons that received commissions from Watershed LLC, in particular, as agents, for the sale of the products of QI cum suis. The six largest recipients are the following:

To Eskawe BV an amount of approximately	US\$	628,000
To Belor Ltd an amount of approximately	US\$	410,000
To Javier Martin Riva an amount of approximately	US\$	314,000
To Holkos Bvba an amount of approximately	US\$	300,000
To Diana Trading BV an amount of approximately	US\$	285,000
To J.J. M. Kortekaas an amount of approximately	US\$	249,000
In total this concerns approximately	US\$	2,186,000.

Along with the payments to Mr J. Appel of US\$ 8,716,000, US\$ 11,586,000

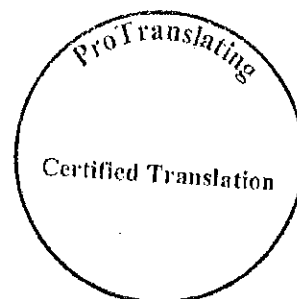
was paid out in fees and commissions. This is approximately 5% of the total amount paid by participants.

In total, on behalf of establishing and maintaining the organization of QI cum suis there were expenditures of US\$ 32,625,000. This is approximately 15% of the total deposits of the participants. Converted at a rate of 1.38, this involves an amount of € 23,644,000.

Additionally other expenditures were effected for the organization of QI cum suis. This involves an amount of € 1,490,000 that was paid to HRM Lawyers BV. Until 20 November 2009, this involves an amount of € 1,255,000.

The overview of D-2650 shows that QI cum suis paid an amount of US\$ 169,000 for legal assistance and advice. This amounts to 122,500 euros. This amount was paid in addition to the expenditures for HRM Lawyers BV. I mentioned this amount separately because HRM Lawyers BV was associated with the suspect Blom and because the suspects Moens and Laan also differentiated between the regular expenditures and the payments to HRM Lawyers BV. A small portion of the payments to HRM Lawyers BV comes from the accounts of Watershed LLC on Cyprus. For example, in 2008 an amount of US\$ 23,800.26 and an amount of € 12,787.61 was paid to HRM Lawyers BV in payment of various invoices. For the same reason, in 2009 a total of € 72,861.18 was transferred to HRM Lawyers BV. It is unclear why HRM Lawyers BV was paid from the account of Watershed LLC on Cyprus. An explanation may be found in chapter 3 of AH-019 on the payment of the Miltman policy.

In that chapter it is revealed that on 4 August 2009, € 18,641.38 was paid to HRM Lawyers BV for the payment of a number of invoices.



D-2565

One of those invoices is an invoice dated 4 March 2009 with the number 207629 in which the cost of travel of the suspects Moens, Laan and Blom to Costa Rica in early 2009 is billed to Watershed LLC. This trip was made in preparation for the payment in relation to LSF I: Mittman policy. During this trip Mr Vargas of PCI was visited by the suspects.

Finally, in the context of the BGIF products sold, monthly payments were made in the amount of € 9,850,000. These amounts were paid as interest reimbursement to the participants in these products. These payments were made from accounts of BGIF BV. The sum of these interest payments is approximately 6% of the total invested by the participants.

2.3.3. Two other types of expenditure:

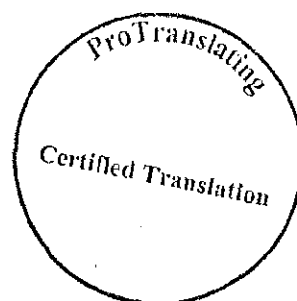
Finally, in D-2441 I included another two amounts which were used on behalf of the organization of QI cum suis or Watershed LLC cum suis. On the one hand, this involves a total net expenditure of US\$ 2,482,000 in connection with Vievestment Ltd. These expenditures were effected from the accounts of Watershed LLC cum suis in the US, Dubai and Cyprus. Regarding a large part of the expenditures it is (still) unknown what the exact background is. Vievestment Ltd is the forerunner of QI cum suis.

Its activities were stopped in mid-2007.

On the other hand this involves the payments to various accounts of Deborah C. Peck. This involves a total of about US\$ 9,500,000. It is still unclear why these payments were made. Probably the payments are associated with the services that Deborah C. Peck provided to Watershed LLC.

The aforementioned amount of US\$ 9,500,000 includes an amount totalling US\$ 550,000 that was paid to Parcside LLC. The authorised signatory of this legal person is Deborah V. Peck. This involves four amounts that were paid during the period of 18 August 2010 to 10 January 2011 by Running2 Limited from the account v1319. This amount was not transferred to account a0052, of which it was known that this was in the name of Parcside LLC. I refer you to paragraph 2.1.3.1 of this official report. The above entries were transferred to a bank account in the name of Parcside LLC in the Seychelles. It is (still) unclear why these payments were made and for what the account of Parcside LLC in the Seychelles is used.

A total of US\$ 9,500,000 was paid directly or indirectly to Deborah C. Peck. This concerns approximately 4% of the total amount paid by the participants.



2.4. Payments to persons that are or have been directly or indirectly entitled to the assets of Watershed LLC:

D-2441 Paragraphs 2.2. and 2.3 of this official report show that the buyers of the products of QI cum suis paid an amount of US\$ 223,830,000 to almost exclusively two accounts of Watershed LLC in the US. Then Watershed LLC cum suis effected various payments on behalf of the purposes mentioned in the above paragraphs in the amount of US\$ 186,361,000. Ultimately, this resulted in an amount of US\$ 37,519,000. This amount converted at a rate of 1.38 yields an amount of approximately € 27,189,000. This balance was then spent for various purposes.

D-2441 In the overview of D-2441 it is stated for which purposes this € 27,189,000 was spent. First, an amount of € 2,875,000 was transferred to bank accounts of QI AG and QI Holding AG in Switzerland. It is still unclear what happened to this money. The investigation into the money trails in relation to the Swiss bank accounts still needs to be carried out. The data on the Swiss bank accounts have not yet been received from the Swiss authorities.

Then, in the overview of D-2441 a differentiation was made between on the one hand expenditures that were probably made for the joint account of suspects Moens and Laan. This amounts to approximately € 12,828,000, and I will come back to this later in this paragraph. On the other hand in the overview for each suspect it is shown what the purposes of the expenditures were. This amounts for the suspect Moens to approximately € 7,146,000, for the suspect Laan approximately € 4,083,000 and for the suspect Blom approximately € 257,000. I will get back to this later in this paragraph.

First I will briefly address the money trails to the various private accounts of the suspects Moens and Laan. I will then outline on what items the said amount of € 27,189,000 was spent and how the corresponding money trails ran. I will make this outline in euros, bearing in mind a conversion rate of \$ 1.38 for 1 euro.

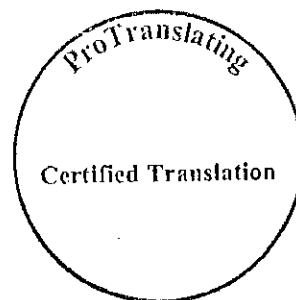
2.4.1. The money trails to the various private accounts:

From the overview on D-2652 we see how the money trails from the various accounts of Watershed LLC cum suis to the known private accounts of the suspects Moens and Laan proceeded. For an overview of the bank accounts involved in this money trails investigation, the names on the bank accounts and the abbreviations of the accounts as these were used in this official report, I refer to D-2612.

D-2652 The private accounts that became known by means of the investigation of the suspects Moens and Laan are listed in the middle segment of the overview on D-2652. The lines with arrows show the balanced money trails, where the 'paying' bank accounts are stated on both sides of the overview. The amounts bearing the euro sign are the money trails in euros and the amounts without specification are the amounts in US dollars. In the overview there is not (yet) consideration of the transfers to the private accounts of the suspects Moens, Laan and possibly Blom in Spain, Switzerland and other countries.

D-2612 The overview shows that especially the suspect Moens has had amounts transferred to his private accounts from various accounts of Watershed LLC cum suis. For example, from the account a4946 a total amount of US\$ 865,000 was transferred to the private account t7501 of Moens in Turkey.

D-2652 The overview also shows that from the private account of the suspect Moens, a9408, an amount of approximately US\$ 70,000 was transferred to the account a4953 in the name of Deborah C. Peck. This transfer took place because Deborah C. Peck had made payments from her private account on behalf of the suspect Moens.



The accounts a4946 and a9740 are the two accounts into which almost exclusively the payments of the participants were received.

In addition, the overview of D-2652 shows that the private account a9408 of the suspect Moens received an amount of US\$ 770,000. This amount was received from, or was in relation to, Parcside Equity LLC. The same applies to an amount of US\$ 200,000 that came into the private account: 17501 in the name of the suspect Moens.

For the background of these last two private account receipts I refer to paragraph (word missing) 2.1.3.1. of this official report and to D-2441 with the description: 'Receipt from and in relation to Parcside Equity LLC'. For the readability of the overview, for the total amount of US\$ 970,000 as a paying bank account that of Parcside Equity LLC is named.

Finally, the overview of D-2652 shows that from the private account a9408 in the name of the suspect Moens a net amount of US\$ 129,000 went to account a9403. This amount relates to the balancing of a booking in the amount of US\$ 154,000 from account to a9408 to a9403 and a later counter booking in the amount of US\$ 25,000.

For the background of this transfer I refer to paragraph 2.2.2.3. This amount was used on 24 February 2010 for the payment of the purchase of an aeroplane in the amount of US\$ 1,980,000. This aircraft was a Beechcraft 1900d with the serial number: UE-70 and the initials PH-RNG / ZS-PZH. *This unit is used for the activities of Orange Aircraft Leasing BV. For the total spending for Orange Aircraft Leasing I refer to paragraph 2.4.2. of this official report and the overview on D-2653.*

The overview of D-2652 reveals that the suspect Moens received payments in his known private accounts from Watershed LLC and from various legal persons associated with Watershed LLC in the US, Dubai and Cyprus. In addition to Watershed LLC this involved the legal persons: Running2 Limited and Crystal Life International FZE.

In total, during the investigation period an amount of € 2,227,000 was transferred to private accounts of the suspect Moens. The money trails investigation shows that of this amount, € 1,135,000 was spent on living expenses and contributions to family members of the suspect Moens. For this I refer to D-2441 with the description: 'Expenditures for living expenses and contributions to family'. For the allocation of the difference of € 1,092,000, I refer to paragraph 2.4.2. of this official report and the overview on D-2653.

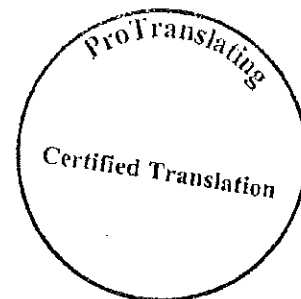
D-2653

The overview on D-2652 also lists one of the private accounts of the suspect Laan. As far as now known this account was only used for receiving amounts. The incoming funds were generally derived from accounts of QI BV. A small amount was also received from the Swiss account of QI AG.

All in all, during the investigation period an amount of € 561,000 was received in the private account of the suspect Laan. The money trails investigation showed that this amount was spent on living expenses and contributions to family members. For this I refer to the overview on D-2441 with the description: 'Expenditures for living expenses and contributions to family'.

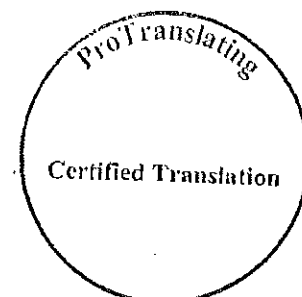
D-2653

D-2652



Payments on behalf of the suspects:

- The overview of D-2441 closes with the payments that were probably made by Watershed LLC cum suis on behalf of the suspects. This concerns expenditures to an amount of € 24,314,000.
- D-2441** The overview also shows that a relatively small proportion of this amount is attributable to the suspect Blom. The money trails investigation thus far shows that an amount of € 257,000 was spent directly on behalf of the suspect Blom. In D-2441 there is a breakdown of this amount. With regard to the 'expenditures' of € 30,000, it should be noted that this is still being investigated; in paragraph 3.2.7. of the PV 4-pv concerning money laundering there is also discussion of the payments to the suspect Blom.
- However, the suspect Blom was an indirect co-shareholder in Watershed LLC until 20 November 2009. For this I refer to paragraph 3.1.1. of the PV 1-pv concerning the criminal organization and in particular D-1865, in which it is shown that to begin with it was agreed between the suspects Moens, Laan and Blom that each would receive 33%. It is therefore also likely that some of the expenditures took place before 20 November 2009 on behalf of the suspect Blom. This, too, is still under investigation.
- D-1865** Approximately € 24,000,000 was probably spent on the suspects and Moens and Laan. For a diagrammatic overview of the bank accounts used for, on the one hand, the purchase of sustainable assets for the suspects individually and on the other hand, the joint investments of the suspects Moens, Laan and up to 20 November 2009, the suspect Blom, I refer to D-2654. Regarding the designation 'sustainable assets' I wish to mention that this involves expenditures for such luxury items as: houses, cars, boats, jewellery, expenditures using credit cards and a helicopter. These expenditures are specified on D-2653.
- D-2654** On the overview of D-2654, there is a rectangle in the middle of the overview with the words 'sustainable assets Moens and Laan' that is symbolic of all the expenditures on behalf of sustainable assets of the suspects Laan or Moens. The lines with the arrows show the money trails, whereby the 'paying' bank accounts are listed on both sides of the overview. In the upper right corner there is a rectangle with the words 'joint investments'. This rectangle represents all joint expenditures for the suspects Moens, Laan and to 20 November 2009, Blom.
- D-2653** The amounts bearing the euro sign are the money trails in euros and the amounts without specification are the amounts in US dollars. In the overview there is not (yet) consideration of the accounts of the suspects in Spain, Switzerland and possibly other countries.
- The overview shows that bank accounts of Watershed LLC in the US and on Cyprus, of Running2 Limited in Dubai, of Crystal Life International FZE in Dubai and the bank account of Romano SA on Cyprus have been used to make payments for the purchase of sustainable assets and the like on behalf of the suspects Moens and/or Laan. With respect to the relationship of the suspects with the aforementioned legal persons, I refer to the PV 1-pv on the criminal organization:
- The overview of D-2654 shows, for instance, that from the account a9740, US\$ 1,070,000 was spent on sustainable assets for the suspects Laan and/or Moens and US\$ 3,744,000 for joint investments of the suspects Moens, Laan and Blom. This account a9740 and the account a4946 were used to receive the payments of the participants. In total, directly from these accounts approximately US\$ 13,014,000 was paid for sustainable assets and investments for the suspects Moens and/or Laan and/or Blom.
- All in all, payments were made in the amount of € 12,597,000 for participations in companies and the acquisition of sustainable assets for the joint account of the suspects Moens and/or Laan.



Additionally, € 9,685,000 was spent on behalf of the purchase of sustainable assets or the transfer into not (yet) investigated bank accounts in the names of the same suspects Moens or Laan.

D-2653

For an overview of the expenditures on behalf of the suspects Moens and/or Laan I refer you to D-2653. The overview shows that of the money invested by the participants, an amount of € 12,828,000 was spent for the joint account of the suspects Moens, Laan and Blom. This amount corresponds with the amount that is named in the overview of D-2441 with the description: 'Payments probably for the joint account of Moens and S.F.W. Laan. Part of this amount was spent in the period before 20 November 2009. This concerns an amount of approximately € 2,112,000.

It is also demonstrated that the amount specified in D-2653 and D-2441 is higher than the amount mentioned above with the overview of D-2654 of € 12,597,000, which came from bank accounts of Watershed LLC cum suis. This difference was paid from private accounts of the suspect Moens.

The overview of D-2653 shows that of the money invested by the participants, an amount of € 3,521,000 was spent on behalf of the suspect Laan, and an amount of € 6,652,000 on behalf of the suspect Moens. These amounts correspond with the amounts that were specified in the overview of D-2441 with the description: 'purchase of sustainable assets and transfer(s)' for respectively the suspect Laan and the suspect Moens.

2.4.2.1. Payments probably for the joint account of the suspects Moens and Laan:

D-2653

During the investigation period, payments were made from the accounts of Watershed LLC cum suis to various companies that have no relationship with the activities of QI cum suis, namely the sale of products to participants. It is (still) unclear for the account of which suspect these expenditures were effected. It is also (still) unclear to what extent the expenditures were effected for the account of Watershed LLC or the shareholder (s) of Watershed LLC.

It was, however, shown in paragraph 3.1.1. of the PV 1-pv concerning the criminal investigation that in any case until 20 November 2009, the three suspects Moens, Laan and Blom were eventually authorised with respect to the assets of Watershed LLC. This is further confirmed in the email dated 24 February 2009 in which there was discussion of the distribution of the spoils among the three suspects Moens, Laan and Blom.

D-1863

In addition, it is shown in a telephone call dated 3 March 2011 between the suspects Moens and Laan that the suspects had invested the 'profit' in a number of specified companies that I also named in the overview of D-2653 under joint investments.

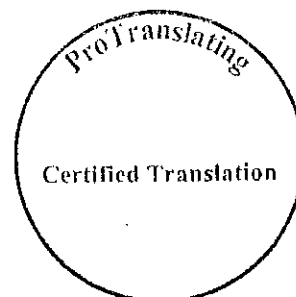
D-1273

In total this concerns approximately € 12,828,000. For an overview of all the companies I refer to the overview on D-2653. Listed on the left of the overview are the persons to whom specific total payments were made. Thus, it is shown in the overview that approximately € 3,000,000 was paid to a company named: Prout International Limited. This involved the construction of three seaworthy sailing catamarans. For this I refer to paragraph 3.2.5.4. of the PV 4-pv on money laundering and to paragraph 2.1.3.3. of this official report.

D-2653

Additionally, in the overview there is a differentiation between the various countries where the receiving individuals are located. For example, in the US an organization named: 'My Smokin Ride Corp' received a total amount of converted € 144,930. With regard to this legal person I refer to paragraphs 3.3.4.3. and

3.3.4.2. the PV 1-pv concerning the criminal organization. This reveals that 'My Ride Smokin Corp' is a company that manages an internet site and whose management is formed by the spouse of Deborah C. Peck and Phil Lian. The latter person is the authorized signatory of Parcside Equity LLC, the legal person from whom in general the term life insurance policies were purchased.



€ 6,550,000 was paid to persons in the Netherlands. The largest recipient in the Netherlands was Orange Aircraft Leasing BV, receiving the amount of approximately € 3,360,000. This amount also included the purchase of the aeroplane the purchase of which I mentioned in paragraph 2.2.2.3. and 2.4.1. of this official report. Orange Aircraft Leasing BV no longer carries out any activities. The amount paid to Orange Aircraft Leasing BV can probably never be recovered. For Orange Aircraft Leasing BV I refer further to paragraph 3.2.5.3 of the PV 4-pv on money laundering.

Of the Dutch payments it is also known that the company called 'We Wannabet' focuses on using the Internet to provide the opportunity to gamble. For this purpose an amount of approximately € 2,290,000 was spent.

Special Products Schagen BV is engaged in developing a technique to remove algae from swimming pools. For this purpose an amount of approximately € 343,000 was spent.

Toon Holding BV / Flogs International BV is a company engaged in the development of so-called apps for smartphones. Approximately € 460,000 was paid to this company. For further information about the relationship with this company I refer to paragraph 3.2.5.5. of the PV 4-pv concerning money laundering.

For the investments of approximately € 871,000 in Portugal and € 579,000 in Costa Rica, the same applies as for, for example, the investments in Orange Aircraft Leasing BV. That is that most likely the money must be considered to have been lost.

Finally, regarding a number of payments it is not (yet) known what the exact background is and what purpose they served. This, too, is still under investigation.

2.4.2.2. Payments for the account of the suspect Moens:

The overview of D-2441 reveals that a total of € 7,849,000 in expenditures were effected for the account of the suspect Moens. This amount includes € 1,135,000 for expenditures on behalf of the living expenses of and for contributions to the family of the suspect Moens. Taking into account the receipt of the equivalent of € 703,000 in relation to Parcside Equity LLC, on behalf of the suspect Moens, Watershed LLC cum suis spent an amount of € 7,146,000. Much of this is stated in the overview of D-2653.

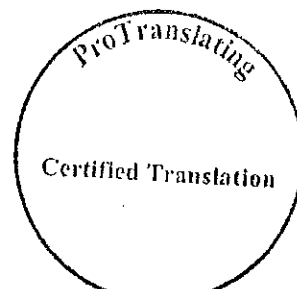
D-2441 The expenditures for the account of the suspect Moens are listed on the right side of this overview. This involves approximately € 6,652,000.

The first category involves the purchase of a number of boats. This involves a net total of € 1,085,500. I have marked this amount as probably having been spent for the account of the suspect Moens because various payments were made from his private account for mooring fees and insurance premiums for the boats. It is (still) unclear to what extent a part of the payments were made for the account of the suspect Laan or the suspect Blom. The largest part of the expenditures, approximately € 1,000,000, were effected before 20 November 2009.

D-2653

On 22 May 2008, an amount of US\$ 344,374.46 was received in the account c7940 in the name of Watershed LLC from a person named Klaus Sandmair with the description 'Purchase price boat'. On 7 November 2008 an amount of US\$ 997.49 including costs was transferred to an unknown account in the name of Ilan Orly adv with the description 'Commission - sale of yacht Daniel' from the same account C7940 in the name of Watershed LLC.

The person named Ilan Orly adv had already been the recipient of an earlier payment. On 17 August 2007, from the account a4946 a payment of US\$ 310,000 was made to an account in the name of Ilan Orly Adv with the description: 'On behalf of Dennis Moens/W/ Dany Lipsz'.



D-2637 Investigation on the internet shows that the person named Ilan Orly is associated with the office: 'Ilan Orly & Co - Law Offices' in Tel Aviv. According to the website of that office, they also provide services in the area of mediation in the purchase or sale of luxury yachts.

Based on such points as the email between the suspects Laan, Blom and Moens on 30 July 2007 which mentions the purchase of a boat, it is very likely that on 17 August 2007 a payment was made for the purchase of a boat in the amount of US\$ 310,000 that yielded the sum of US\$ 344,000 on 22 May 2008.

D-2600 This amount was received in a bank account of Watershed LLC on Cyprus. Which boat this was and what was originally paid for this boat is still unclear.

Subsequently, on 13 June 2008 from the account c7940 in the name of Watershed LLC, a payment of US\$ 647,495.26 was made to Sunseeker Germany SA for the purchase of a yacht of the type: 'Predator 58'. This yacht is probably named: 'Quality Time II'.

On 18 June 2008 from the same account c7940 in the name of Watershed LLC, a payment of US\$ 500,987.91 was made to Jetty Marine Limited for the purchase of a sailing yacht of the type: Hanse 540. This yacht is probably named: 'The Liberty'.

In total, during the investigation period in any case an amount of approximately € 1,085,000 was paid on behalf of the yachts that were purchased. This amount was partly paid directly from an account into which participants made their deposits. Regarding the way in which the account c7940 was fed, I refer to D-2621. It became apparent that the account c7940 was fed during the investigation period with US\$ 724,000 from the account a9740 and with US\$ 7,205,000 from the account a4946.

D-2621 In addition, I refer to D-2622. This shows that the account c7940 was fed during the investigation period with US\$ 150,000 from the account a0029 and with US\$ 964,000 from the account a0011. In total, during the investigation period an amount of US\$ 9,672,000 was received in the account c7940 in the name of Watershed LLC. Of this an amount of US\$ 9,043,000 was received from accounts of Watershed LLC in the US. Most of this comes directly from the two accounts into

D-2622 which participants made their deposits.

In addition to the expenditures for the boats, with regard to the suspect Moens the overview shows that a total amount of € 525,800 was spent on the purchase of several cars. Another € 2,450,000 was spent for the purchase of houses in Turkey, Florida, Spain and the Netherlands.

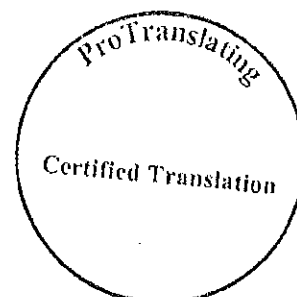
During the investigation period jewellery was purchased for the amount of € 431,000, and € 663,580 was spent using credit cards. This is above the amount of € 1,135,000 that is included in appendix D-2441 under: 'Expenditures for living expenses and contributions to family'.

D-2653 The overview with the expenditures also includes an amount of € 887,000. This concerns transfers from the accounts of Watershed LLC to (still) uninvestigated accounts of the suspect Moens, particularly in Spain.

Finally, in addition to these transfers and the various expenditures in the amount of € 347,000, a payment was made for the purchase of a helicopter. On 9 June 2010 a payment of US\$ 360,000 was made from the account a0060 to a bank account in the name of Insured Aircraft Title Service with the description: 'Robinson R44II Clipper-FAA Registration number N457R'. For an illustration of a similar helicopter, I refer to: D-2655.

In total, during the investigation period an amount of € 7,146,000 in expenditures was effected on behalf of the suspect Moens. Regarding the expenditures for the suspect Moens, I refer further to paragraph 3.2.5. of the PV 4-pv concerning money laundering.

D-2655



Payments for the account of the suspect Laan:

The expenditures that Watershed LLC probably effected for suspect Laan are listed in the middle column of D2653 of the overview. This involves € 3,521,000. Their part of this was spent for the purchase of sustainable assets.

D-2653 Thus, on 17 April 2008 an amount of US\$ 125,000 was transferred from the account a4946 to the account numbered: 4739.17.211 in the name of E.W. Driessen. Also, on 22 April 2008 an amount of € 8,284.31 was received in the private account 4499 of the suspect Laan from account: 4739.17.211 in the name of E.W. Driessen BV with the description: 'balance'.

D-2653 According to data from the internet, E.W. Driessen BV is a dealer in recreational craft. Probably the suspect Laan paid a net price of approximately € 82,400 for the purchase of a boat. This money came from the account a4946. This was one of the accounts which are almost exclusively fed by the deposits of the participants. All in all, during the investigation period, on behalf of the suspect Laan approximately € 86,400 was paid in relation to boats.

D-2646 In addition, probably an amount of about € 81,600 was spent in relation to a Bentley and € 40,600 for the purchase of jewellery.

Most of the expenditures for the suspect Laan were spent in relation to Spain. In total, this involves an amount of approximately € 1,946,000. Of this, a small part: about € 214,800 was paid in connection with the purchase/lease of a house on Ibiza,

a second part: approximately € 855,250 was paid to a person named F.A.H. van de Weyer, and another part of approximately € 855,850 to a foundation named Stichting Spanje.

D-2653 Regarding the payments to Van der Weyer, I refer to an email exchange between the suspect Laan and the stated Van der Weyer. This revealed that there is disagreement between the two persons on the repayment of a sum of € 707,000 to the suspect Laan. It is (still) unclear what the background is of these payments from the suspect Laan. It may involve an investment by the suspect Laan in a real estate project.

Stichting Beheer Spanje is addressed in paragraph 3.2.6.3. of the PV 4-pv on money laundering. There it is shown that the amounts that were paid to this foundation were probably partially used to buy two houses for the amount of € 308,000 in Spain in the name of Marinta Litoral Invest SL. It is (still) unclear what happened to the rest of this money.

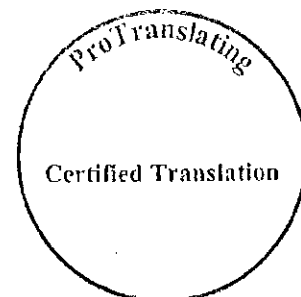
D-2411 Approximately € 1,128,000 was transferred from the accounts of Watershed LLC cum suis to not (yet) investigated accounts of the suspect Laan in Spain, Switzerland and Turkey. This, too, is still under investigation.

The overview of D-2441 reveals that besides the expenditures of overview D-2653 in the amount of approximately € 3,521,000, approximately € 562,000 was spent on behalf of the living expenses of, and contributions to, the family of the suspect Laan.

In total, during the investigation period, on behalf of the suspect Laan an amount of approximately € 4,083,000 in expenditures was effected by Watershed LLC cum suis. Regarding the expenditures for the suspect Laan, I also refer to paragraph 3.2.5. of the PV 4-pv concerning money laundering.

D-2653

D-2441



3, . Résumé:

The purpose of this official report is to give a description of the provisional results of the criminal investigation into the money trails in relation to Watershed LLC. The investigation period goes from 1 January 2007 to 27 September 2011.

During the investigation period, most likely the amount of US\$ 223,880,000 was received from participants for the purchase of products from QI cum suis. This was transferred during the first six months of 2007 into a so-called escrow account at the Guarranty (sic) National Title Co. After 1 August 2007 the participants paid almost exclusively into two accounts that were managed by Deborah C. Peck:

7859144946 under the name 'Deborah C. Peck Attorney Trust Account' 1; 7868289740 under the name: 'Deborah C. Peck Attorney trust account II'.

The receipts show a strongly fluctuating balance over the course of time with many peaks and valleys. The trend, however, is that the receipts have risen relatively rapidly from April 2007 to January 2008. After a slight decline through February 2009, until May 2010 a sharp increase could be observed. Finally, from June 2010 there was a sharp decline in receipts. The sharp decline was probably caused by QI cum suis having to announce after June 2010 that PCI was the reinsurer.

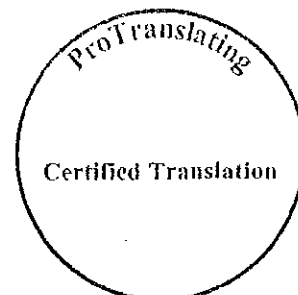
A large proportion, namely 67%, of the receipts of the participants was transferred to other accounts managed by Deborah C. Peck. In addition to the two accounts mentioned above this concerned 18 accounts. Also part, 13%, was transferred on to accounts of Watershed LLC, Running2 Limited, Crystal Life International FZE, Romano SA and Zilwood SA. Overall, 80% of the amount received from the participants was transferred to various accounts in the US, Cyprus and the UAE.

It is unclear why these 'internal' transfers took place in this scope. It is also unclear why the payments for making expenditures were not effected from the two accounts into which the participants also almost exclusively made their deposits. It is possible that this method was applied because Deborah

B. Peck received a fee that was based in part on the size of the amounts transferred over a certain period.

Besides the internal bookings, actual expenditures were also effected from a wide range of accounts. Thus, during the investigation period:

- * more than US\$ 50,000,000 was spent on the purchase of policies. Here it should be noted that the greatest part of the purchases: 77%, were made from the same vendor: Parcside Equity LLC. The reason is probably the payment of this vendor of US\$ 870,000 into two private accounts of the suspect Moens;
- for more than US\$ 30,000,000 paid in premiums paid for maintaining the policies of insurance companies;
- for approximately US\$ 19,551,000 paid for the purchase of CDs. The purchase of these CDs was financed by the deposits of the participants.
- ♦ an amount of approximately US\$ 19,803,000 received for the sale of CDs. In the period from November 2010 to February 2011, approximately US\$ 13,700,000 worth of CDs was sold. Part of the proceeds were used to effect a number of partial payments for the construction of 3 seaworthy sailing catamarans;
- approximately US\$ 17,535,000 paid to PCI as remuneration for the counter-insurance provided;
- * approximately US\$ 16,514,000 was paid out to participants. Contrary to what was said to the participants, PCI did not make these payments. The payments were essentially made with funds that the participants themselves had invested. This is an important feature of so-called 'Ponzi fraud'.



Expenditures were also effected for the maintenance of the organization. In total this concerns approximately US\$ 32,625,000. This is approximately 15% of the total deposits of the participants. The payments were made from the accounts of Watershed LLC in the US, Cyprus and Dubai and QI cum suis from the Netherlands. Most of the expenditures concerned regular expenditures. Also noteworthy is the following:

- Approximately US\$ 8,716,000 was paid either directly or via an intermediary to Mr J. Appel. He was responsible for selling the products of QI cum suis in Belgium;
- In addition, an amount of US\$ 6,055,000 was spent for the establishment and maintenance of the sales unit in the Netherlands, Belgium and Spain;
- two persons named I. van de Berg and B.M. Vajta jointly received a total of US\$ 620,000, regarding which it is not yet clear what this was for; in addition to the payment to J. Appel, a total of US\$ 2,870,000 was paid in commissions.
- * These payments were made from the US.

Additionally a total of US\$ 2,055,000, converted € 1,490,000, was paid to HRM Lawyers BV. A small portion of these payments came from the accounts of Watershed LLC on Cyprus. This was probably done to protect services provided from the rest. For example, the invoice dated 4 March 2009 with the number 207629 in which the costs of the travel of the suspects Moens, Laan and Blom to Costa Rica in early 2009 were invoiced was paid by Watershed LLC on Cyprus.

Also in addition to the aforementioned expenditures of US\$ 32,625,000, converted to € 23,644,000, in the context of the BGIF products monthly payments were made to the amount of € 9,850,000. These amounts were paid as interest reimbursement to the participants in these products.

Payments were made to various accounts of Deborah C. Peck. This involves a total of about US\$ 9,500,000. It is unclear why these payments were made. Probably the payments were associated with the services that Deborah C. Peck provided to Watershed LLC.

In the said amount of US\$ 9,500,000 an amount is included of a total of US\$ 550,000 which was paid to Parcside LLC. The authorized signatory of this legal person is Deborah V. Peck. The above entries were transferred to a bank account in the name of Parcside LLC in the Seychelles.

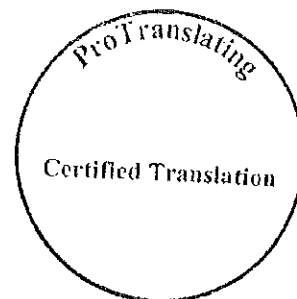
Finally, after all expenditures an amount of US\$ 37,519,000 remained. Converted this amounts to € 27,189,000. Ultimately this amount largely ended up with the suspects Moens, Laan and Blom. Of only a part, € 2,875,000, it is (still) unknown how this was spent. The remainder was spent as follows:

- ♦ For the joint account of the suspects the amount of € 12,828,000;
- ♦ On behalf of the suspect Moens the amount of € 7,146,000
- On behalf of the suspect Laan the amount of € 4,083,000;
- ♦ On behalf of the suspect Blom the amount of € 257,000.

Regarding the suspect Blom, it should be noted that during the time that the suspect Blom was co-shareholder of Watershed LLC, an amount of approximately € 2,000,000 was paid in relation to the suspects. The same applies to the expenditure amounting to € 1,000,000 for the purchase of a number of boats.

The question remains of whether the role of Deborah C. Peck is exclusively limited to the provision of services as trustee. From the money trails investigation, regarding the fulfilment of this role one must make the following critical comments:

- The investigation shows that 80% of the money received from the participants was directly or indirectly transferred on to accounts of Watershed LLC cum suis in the US, on Cyprus and in Dubai. Deborah C. Peck was partly responsible for these 'internal' entries;

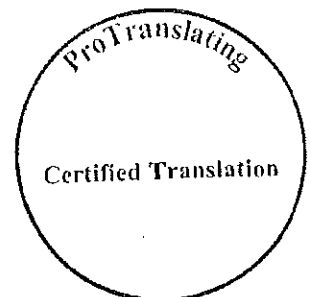


- From the private account of Deborah C. Peck, a total of US\$ 70,000 in personal expenses was paid on behalf of the suspect Moens. This was repaid in a single payment by the suspect Moens;
- The payments to participants were paid by means of, and for the most part directly from, the accounts for which Deborah C. Peck was responsible. She thereby assisted in the construction of a false reality for the participants;
- Through her authorization concerning the assets of Parcside LLC, Deborah C. Peck gained access to a total amount of US\$ 550,000. Running2 Limited transferred this into the account of Parcside LLC in the Seychelles;
- From 2010, the payments for the purchase of the policies were no longer effected from the accounts of Watershed LLC but from account a0052 that was in the name of Parcside LLC. It is unclear why this method was chosen;
- Finally, Deborah C. Peck was instrumental in the sale and the transfer onward of a large part of the proceeds from the COs that was then used to finance the construction of three seaworthy catamarans.

We have prepared this official report on 1 March 2012 in Zwolle under oath of office, 1st reporting officer, and official promise, 2nd reporting officer.

4. Signatures of reporting officers:

7





ProTranslating
CERTIFICATE OF ACCURACY

The undersigned, Dr. Luis A. de la Vega, Chairman of ProTranslating, appearing on behalf of ProTranslating, hereby states, to the best of his knowledge and belief, that the foregoing is an accurate translation of the attached original document in the Dutch language, consisting of 33 pages, and that this is the last of the attached.

Luis A. de la Vega, Ph. D.
Chairman
For ProTranslating

State of Florida
County of Miami-Dade

The foregoing certificate was acknowledged before me on this 5th day of July, 2012, by Dr. Luis A. de la Vega, Chairman of ProTranslating, a Florida corporation, on behalf of the corporation. He is personally known to me.

Notary Public

My commission expires:

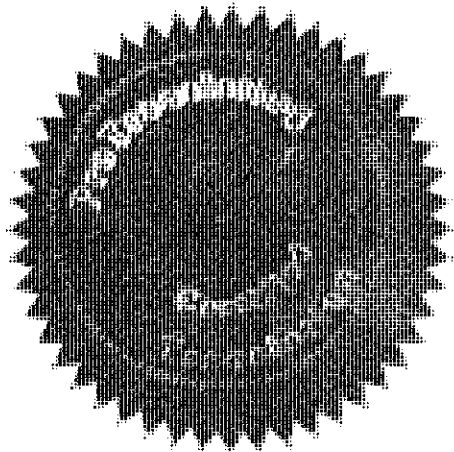
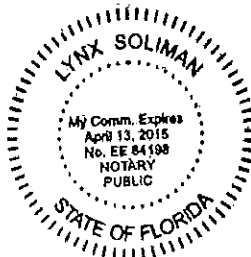


Exhibit “C”



O'QUINN STUMPHAUZER PL
COUNSELORS AT LAW

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Miami, Florida 33131
T: (305) 371-9686
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January 25, 2013

VIA E-MAIL TO LESLIE CLOYD, AS COUNSEL

Deborah C. Menotte, as Trustee
P.O. Box 211087
West Palm Beach, FL 33421

**Re: In re CLSF III IV, Inc. 12-30081-EPK
Second Urgent Request for Action**

Dear Ms. Menotte:

O'Quinn Stumphauzer, PL represents the Petitioning Creditors in the above referenced involuntary bankruptcy proceeding and related actions. This letter is our second attempt to induce necessary action by you, as our Interim Trustee. Additionally, this letter specifically requests that you clarify your legal relationship with the investors victimized in the Quality Investments life settlement offering.

Counsel for the PCI estate recently informed me that, after consulting with the United States Securities and Exchange Commission, the PCI Receiver agrees with the position advanced in our previous letter. Specifically, the PCI Receiver agrees that the distribution of the PCI recovery would most effectively reach the international victims of the Quality Investments offering through the CLSF III IV, Inc. Chapter 7 estate. However, your objection to the claims submitted by the victims of this life settlement offering and your failure to consolidate the various bankruptcy estates has created uncertainty that such a distribution would be shared ratably by all Quality Investments victims.

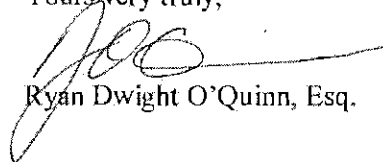
Furthermore, through the CLSF VIII, Inc. bankruptcy estate, you have access to approximately \$3 million of proceeds from a matured insurance policy. Uncontroverted testimony offered by Deborah Peck both at the August 24, 2012 hearing and at the 341 meeting of creditors evidences that this policy was purchased and maintained with investor funds comingled in a single account. Your failure to react to this evidence by moving for substantive consolidation has exposed critical estate assets to unnecessary risk of lapse.

On January 22, 2013, this Court entered an Order (incorporating the October 2012 on-the-record stipulation) holding that numerous entities were alter egos of CLSF III IV, Inc. The evidence is overwhelming and uncontroverted that these entities and the related debtors were little more than sham corporations and sham trusts formed to defraud innocent victim investors. As Interim Trustee of the debtor entities and the alter ego entities, you owe an enforceable fiduciary duty to the victims of that fraud. By objecting to the victim investors' right to vote in the 341 meeting of creditors you are denying the existence of that legal duty.

My clients demand that you affirm your fiduciary relationship with the investors victimized by Deborah Peck and her coconspirators. Further, my clients demand that you immediately move to consolidate the various estates to make all estate funds available for the perseverance of at-risk assets.¹ Finally, my clients demand that you execute your duties by advocating for the bankruptcy estate's full share of PCI receivership assets, both by participating in the creation of a claims process and by filing a claim on behalf of the investor/victims.

We received no response to our prior letter sent to you through counsel. Please confirm that you will move with all deliberate speed to protect the interests of all Quality Investments life settlement victims by acting in accordance with this letter's specific requests. If you do not intend to take the requested actions, please provide us with a response explaining your reasoning in failing to act in this matter. In the absence of a satisfactory response, we will be forced to seek relief from the Court in this matter.

Yours very truly,

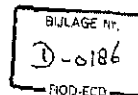


Ryan Dwight O'Quinn, Esq.

CC: Andrew Herron
Dan Gold
Bob Charbonneau

¹ We note that your previous failure to act has been justified by pointing to directives handed down by the US Trustee in connection with your negotiation of your appointment in the related voluntary cases. We object to any private agreement that would bind your ability to execute your fiduciary duties in the CLSF III IV, Inc. case and note that the termination date of that purported obligation passed with the 341 elections on December 7, 2012.

Exhibit “D”



THE CLSF TRUST II/TV STICHTING CLOSED LIFE SETTLEMENT FUND
II/TV UA DTD 7/9/2007

This Declaration of Insurance Trust is made this 9th day of July, 2007, by and between Watershed, LLC hereinafter called the Trustor and Settler, and Deborah Peck, of Palm Beach Gardens, Florida, hereinafter called the Trustee.

I.

The Trustor, as owner of certain life insurance policy or policies as listed in Exhibit I, and desiring to establish a Life Insurance Trust, with power in the Trustee upon the death of the insured to assign to the Trustee all his right, title, and interest in the policy or policies of insurance, to be held by Trustee in trust, and to receive the proceeds of the policy or policies of insurance when they become due and are paid, for the purposes and on the conditions set forth herein, The Trustor reserves the right to add to this trust from time to time additional life insurance policies which, when delivered to the Trustee, shall be held by him subject to the terms herein.

II.

The Trustee is vested with all right, title, and interest in the life insurance policy or policies, and is authorized and empowered to exercise and enjoy, for the purposes of the trust and as absolute owner of the policy of insurance, all the options, benefits, rights, and privileges under the policy or policies. The Trustor relinquishes all rights and powers in the life insurance policy or policies which are not assignable and will, at the request of the Trustee, execute all other instruments reasonably required to effectuate this relinquishment. The trustee shall receive and hold said Life Insurance policies, together with any additions thereto, in trust for the use and benefit of the following as described in Exhibit II.

III.

The Trustor may allow the beneficiaries of this trust as described in Exhibit II to assign or sell or hypothecate during the lifetime of said beneficiary their units of beneficial interest in this trust. However, such transaction must be approved by the Trustee prior to it having effect. Additionally, any transfers, by will or judgment of a Probate Court or its equivalent that are effectuated due to the death of a beneficiary do not require the permission of the Trustee. However, such non-inter-vivos transfers must be communicated to the Trustee within 180 days of said event in order to be effective. Additionally, any payments required from this Trust to the beneficiaries of this Trust made during a period of time that a non-inter-vivos-transfer is required but not communicated to the Trustee will be the responsibility of the legatee to recover any distributions from the original Beneficiary and not the Trustee.

IV.

If the Trustee is required to pay any tax or assessment resulting from the transfer of units, the tax is deemed to have come from the distributions of the Beneficiary that caused such tax to be assessed and not as an expense of the Trust.

V.

All income of the trust not resulting from the receipt of insurance proceeds shall be accumulated by the Trust and used to pay annual Trust expenses. Additionally, any income tax arising from the receipt of said income shall be paid from said income. Finally, if there is any additional money added to Corpus due to the receipt of said income, these monies shall be accumulated and paid over to the beneficiaries of the Trust when the Trust shall terminate.

VI.

The Trust shall pay over all corpus increases when received in the same tax year for which such increases to Corpus are received and not necessarily when accreted. Additionally, the Trustee, in his or her discretion may determine that there will be no more increases in Corpus and thus determine that the Trust shall terminate. Notwithstanding the above, the Trustee may after the payment of Corpus increases decide to not terminate the Trust for 1 calendar year as to allow the original Settlor of the Trust to make additional contributions to the Trust. In any event, the Trustee, if it is determined to terminate this Trust, must make a provision to pay any final Trust expenses, such as any tax, accounting or legal fees.

VII.

This Life Insurance Trust shall be irrevocable and unamendable. The Settlor is aware of the consequences of establishing an irrevocable trust and hereby affirms that the trust created by this agreement shall be irrevocable by me or any other person, it being my intention to make to the beneficiary/beneficiaries named herein an absolute gift of the Life Insurance policies described in Exhibit I.

VIII.

This agreement and the trust created hereby shall be administered, managed, governed and regulated in all respects according to applicable statutes of the State of Florida.

IX.

The Trustee, in addition to all other powers granted by this agreement and by law, shall have the following additional powers with respect to the trust, to be exercised from time to time at the Trustee's discretion:

[Handwritten signature] *[Handwritten initials]*

Management of the Trust

To invest and reinvest, the Corpus of the Trust to pay all Trust obligations and to invest all Trust assets in a reasonable and prudent manner and to always allow enough money to guarantee that all future obligations arising from the Insurance Policy contributed to this trust will be satisfied by Trust Corpus without having to receive additional contributions to Corpus from either the Settler or any Beneficiaries.

Litigation

To initiate or defend, at his discretion, any litigation affecting the trust.

Attorneys, Advisors and Agents

To employ and pay from the trust reasonable compensation to such attorneys, accountants, brokers, and investment, tax and other advisors as he shall deem advisable. In addition, to cause all US Income Tax Filings to be made and to assure the Trust stays in Compliance with its US Tax Obligations. However, the Trustee has no obligation to assure the Trust or anyone else that any of the beneficiaries or the Settler is in compliance with US Tax Laws and Regulations. Finally, the transfer of the Policy to the Trust as described in Exhibit I to the control of the Trustee is done and warranted by the Settler that said transfer is in full compliance of all US Laws.

X

No bond for the faithful performance of duties shall be required of any Trustee appointed under this agreement.

XI.

The trustee shall receive reasonable compensation for the services performed by him, but such compensation shall not exceed the amount customarily received by corporate fiduciaries in the area for like services.

XII.

No Trustee of the trust created by this agreement shall at any time be held liable for any action or default of himself, or of his agent, or of any other person in connection with the administration and management of this trust unless caused by this own gross negligence or by commission of a willful act of breach of trust.

XIII.

The Trustee, by joining in the execution of this agreement, hereby signifies his acceptance of this trust.

[Handwritten signature]



XIV.

The Trustee shall have sole authority to determine what shall be defined as income and what shall be defined as principal of the trust established by this agreement, and to determine which costs, taxes and other expenses shall be paid out of income and which shall be paid out of principal.

XV.

In the event that any portion of this agreement or the trust created hereby shall be held illegal, invalid or otherwise inoperative, it is my intention that all of the other provisions hereof shall continue to be fully effective and operative insofar as is possible and reasonable.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.


Trustor Execution Page

Watershed LLC Trustor,

THE NETHERLANDS, AMSTERDAM,

On this 11th day of July, 2007, before me, Mr C.D.M. Blom, Attorney at Law in AMSTERDAM, THE NETHERLANDS, personally came and appeared Mr D. Moens, known, and known to me, to have the power to act on behalf of Trustor to execute the foregoing instrument, and who duly acknowledged to me that he executed same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My Commission Expires: July 31, 2007

IN WITNESS WHEREOF, I, Mr R.L. Snip, Attorney at Law in AMSTERDAM, THE NETHERLANDS, hereunto set my hand and official notatize the official seal of Mr Blom.



My Commission Expires: July 31, 2007

Deborah Peck Trustee Execution Page
Trustee

STATE OF New Jersey

COUNTY OF Monmouth

On this 11 day of July, 2007, before me personally came and appeared
Deborah Peck, known and known to me, to be the individuals described in and who
executed the foregoing instrument, and who duly acknowledged to me that he executed
same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jo-Anne E. Rogers

My Commission Expires: 6-29-08

JO-ANNE E. ROGERS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 29, 2008

Exhibit I
Schedule of Life Insurance

Insurance Company: The Lincoln National Life Insurance Company

Policy # JF

Insured:

Policy Owner: IL

Face Value of Policy: \$10,000,000

Exhibit II

The following are the income and corpus beneficiaries of this trust:

Beneficiary	Base in Interest	% Corpus	% Income
Mrs. E.C. Minnaar-Louwisse and Mr. M.J. Minnaar	\$120,000.00	4.35%	4.35%
Mrs. M.A.H. Ortman	\$240,000.00	8.70%	8.70%
Mrs. H. Ortman-Thalen and Mr. P.H.M.A. Ortman	\$240,000.00	8.70%	8.70%
Mr. J.J.A. de Jong	\$240,000.00	8.70%	8.70%
Mr. L. de Groof	\$240,000.00	8.70%	8.70%
Mr. J. Saal	\$300,000.00	10.87%	10.87%
Mr. M.J.I. de Graaf	\$300,000.00	10.87%	10.87%
Mrs. W.A. de Graaf	\$300,000.00	10.87%	10.87%
Mr. W.A.C. Schaap	\$300,000.00	10.87%	10.87%
Mr. M. Driscoll	\$180,000.00	17.39%	17.35%
	<u>\$2,760,000.00</u>	<u>100.00%</u>	<u>100.00%</u>

Exhibit “E”

ontvangen te "collectiviseren" ten einde de polissen in leven te houden. Bij de meeste gesloten fondsen hebben slechts een deel van de Leden hun premies betaald, waardoor collectiviseren noodzakelijk was om elke polis in de lucht te houden. Tot nu toe is mijn kantoor er in geslaagd om iedere polis in de lucht te houden middels optimalisatie van premie betalingen.

Ik zal u volgende week een mededeling doen toekomen aangaande de laatste stappen alsmede de details van de oplossings-structuur. Het heeft veel deskundigen vele uren gedurende vele maanden gevergd om dit punt te bereiken. Uw geduld en steun worden bijzonder gewaardeerd, maar ik kan u toevertrouwen dat wij beschikken over een levensvatbare oplossing dat de belangen van de belegger het beste afdekt, met het hoogste rendement.

Hoogachtend,

Deborah Peck

Deborah C. Peck, Esq.

Trustee

Aan deze vertaling kunnen uiteraard geen rechten worden ontleend.

Update 02-04-2012. Brief van de Trustee, Mw. D.C. Peck

March 30, 2012

Dear Members of the QI Closed Funds:

I have not been in communication with you as my office as well as AdminQI's office has been diligently working on an effective solution for the portfolio. There have been options that I, as trustee, with the assistance of AdminQI, have explored in order to select the option that provides the most safe return for the investors. I have relied upon various consultants, including experts in due diligence, lawyers, and financial advisors, to reach a decision. Simultaneous with our efforts, the portfolio has been underwritten and records updated. This has taken several months as new medical reports and illustrations needed to be obtained, as well as two sets of LEs. The new documentation helps in the valuation of the portfolio required by those structuring the solution. We are finalizing the details but will be able to share specifics as of this coming week. We are also discussing with a major investor in the closed funds, his membership on the Board of the new structure for the purposes of investor representation and continued stewardship of the portfolio.

The structuring of this solution will take approximately two to three months of work. Therefore, we will need to request immediately from all investors the second quarter's premiums. If there are any questions on premiums, please consult AdminQI at your earliest convenience. I thank you in advance for this support as we are now closing in on the final stages of construction of the solution.

5-6-2012

AdminQI has also directed a question, posed by a majority of you, concerning the status of Investors paying all, part, or none of their premiums. The first issue of non-payment or partial payment and the impact on the investor's position in his closed fund is a legal question for a Dutch attorney, as the investment contracts are Dutch. We will be hiring a Dutch attorney to give my office an opinion on this issue. The second question is a legal and financial question on the non-payment or partial payment of premiums and how this impacts an investor's financial return. My office will be retaining both a Dutch lawyer and an accountant to advise us on this issue. I am seeking an equitable solution to this problem as those who have been paying premiums have effectively been supporting the non-paying members.

Lastly, I have been required to "collectivize" the premiums that I have received in order to keep the policies in force. Most of the closed funds have only had a few of its members sending in premiums, thereof collectivization was imperative to sustain every policy. To date, my office has successfully kept each policy in force by optimizing the payment of premiums.

I will be publishing a statement this coming week on the final steps and details of the structured solution. It has required many experts, many hours over many months to reach this point. Your patience and support are greatly appreciated, but I can share that we have a solution in hand that is viable and is in the best interests of the investors, providing the greatest returns.

Sincerely,

Deborah Peck

Deborah C. Peck, Esq.

Trustee

Update 26-03-2012 Update oplossing, Portefeuille, Maatschap QI en Rechtszaak

Update oplossing

Een lange tijd hebben wij geen update geplaatst op deze website, waarvoor onze excuses. Wij weten dat veel participanten de updates zien als een life-line naar hun participatie. Is er de afgelopen weken dan niets gebeurd of hebben de mensen bij AdminQI niet gewerkt? Integendeel! Er is de afgelopen week ontzettend hard gewerkt door de trustee en haar achterban om de informatie die nodig is om de premiefinanciering in stelling te brengen, bij elkaar te krijgen. Het gaat hier voornamelijk om vereisten die de financier stelt aan de aangeleverde informatie per polis. Deze informatie is niet up-to-date omdat dit nooit tot de werkzaamheden van de trustee behoorde. Het achteraf verzamelen van alle informatie neemt altijd meer tijd in beslag!

Er worden door de verschillende partijen die bij het tot stand komen van de oplossing betrokken zijn besprekingen gevoerd in de USA, Duitsland, Engeland en Luxemburg. Wij hopen dat u zich kunt

Exhibit “F”

Deborah C. Peck, Esq., Trustee
4521 PGA Blvd., #274
Palm Beach Gardens, Florida 33418
Telephone: 561-845-7767
Fax: 561-828-7641
peck@trusteeservices.co

July 7, 2012

Dear Investors,

I am writing to inform you of the status of the policies as well as of the actions that I am taking to protect and preserve the QI assets. The policies have suffered severely over the last month. From approximately June 2012 through July 6, 2012, twelve policies have lapsed due to lack of payment of premiums. Two of the twelve policies that lapsed in June and in July were reinstated due to the efforts of my office and the receipt of premiums to cover their cost. This means that there are currently ten policies that have lapsed and which my office is beginning the process to try to reinstate, however there are no guarantees for reinstatement from the carriers. Five of the twelve policies lapsed between July 1 and July 6. July 2012 poses a dire outlook with eight more policies lapsing between July 11 and July 31. Admin QI continues to publish the need for premiums, and I continue to apply my utmost of care to the QI assets. However, without your premium monies being wired to the trustee account, I cannot service the policies and keep them in force. The only action left to me is to begin to sell policies in order to preserve other policies. This is not a solution but a method for immediate preservation of the assets.

I have searched for viable solutions for this "portfolio." I have spoken with buyers who wanted to buy the distressed portfolio as well a German bank that was interested in providing premium financing. Both of these solutions, after careful consideration of the return to the investors, were deemed entirely unacceptable. I did have the good fortune of meeting Life Settlement Consultants who were able to provide me with a projected model for returns that would benefit all investors. LSC would actively manage the portfolio and have the capability of bringing in other distressed portfolios. No other entity including investor groups have proposed an alternative that has so great a potential for maximizing investor returns. Many of you have visited with Admin QI over the last several weeks and have found confidence in the answers that they have provided in regard to LSC and its projections. I chose LSC for the simple reason that it offers the greatest opportunity for preserving and managing the assets and obtaining the most money back for the investor. I am attaching a letter from LSC for your review. Please read it. If you have questions, Admin QI will be available to meet with you in small investor groups. LSC will also be available for a larger meeting with investors.

For those of you concerned about how your investment will be allocated in LSC, let me provide you with the following. We have devised a simple approach to increase or decrease investor bond distributions based upon paid participations and ongoing payment of premiums. For those of you who have paid their premiums, you will receive more of a return through the bond issued to you than those investors who have not paid their premiums. For those of you who can immediately contribute more than your required premium amount to prevent policies from further lapsing, we will adjust your return to reflect your "hero" participation. If you are concerned about a fair distribution based upon your participation and premium payments, do not be. A thorough accounting by a recognized accounting firm will go over participation and premium records to determine investor status in the LSC bonds.

For those of you who are concerned about my authority to act in the capacity of seeking a solution for the assets, I have a US memorandum of law of the law firm of Michael L. Glaser, LLC that describes my powers set forth in the various trusts naming me as trustee and under Florida statutes applicable to trustees.

I hope this letter clarifies the status of the policies, the solutions available, and my authorization to proceed. Please read carefully the attachments and forward any comments to Admin QI. Based upon your response, Admin QI will schedule meetings to answer any questions. LSC offers an opportunity for your investment to succeed. Please consider it carefully as time is of the essence.

Sincerely,

Deborah Peck

Deborah C. Peck, Esq., Trustee

Exhibit “G”

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

Judge Erik P. Kimball

**CERTIFIED
COPY**

In Re:

Case No. 12-30081-BKC-EPK

CLSF III IV, INC.,
Debtor.

EMERGENCY MOTION TO APPOINT TRUSTEE, PETITIONING
CREDITORS' OMNIBUS EMERGENCY MOTION FOR ORDER
DIRECTING IMMEDIATE APPOINTMENT OF INTERIM TRUSTEE (3)

August 24, 2012

The above entitled cause came on for hearing before
the HONORABLE ERIK P. KIMBALL, one of the Judges in
the UNITED STATES BANKRUPTCY COURT, in and for the
SOUTHERN DISTRICT OF FLORIDA, at 1515 North Flagler
Drive, West Palm Beach, Palm Beach County, Florida, on
August 24, 2012, commencing on or about 10:30 a.m.,
and the following proceedings were had:

Reported by: Jacquelyn Ann Jones, Court Reporter

1 APPEARANCES:

2 EHRENSTEIN CHARBONNEAU CALDERIN

3 By: ROBERT P. CHARBONNEAU, ESQUIRE

DANIEL L. GOLD, ESQUIRE

4 On behalf of MQIC, the petitioning creditors

5 O'QUINN STUMPHAUZER, PL

6 By: RYAN DWIGHT O'QUINN, ESQUIRE

On behalf of the petitioning creditors

7 LAW OFFICES OF BRETT A. ELAM, P.A.

8 By: BRETT A. ELAM, ESQUIRE

9 On behalf of the alleged debtor

10 OFFICE OF THE U.S. TRUSTEE

11 By: HEIDI A. FEINMAN, ESQUIRE

(Appearing telephonically)

12 I N D E X

13 PAGE

14 WITNESS: DEBORAH C. PECK

15 DIRECT EXAMINATION BY MR. O'QUINN ----- 45

16 CROSS EXAMINATION BY MR. ELAM ----- 116

17 REDIRECT EXAMINATION BY MR. O'QUINN ----- 132

18 E X H I B I T S

19 Exhibits No. 2 thru 12 admitted ----- 43

20 Correction made, Exhibits No. 3 thru 12

21 admitted ----- 66

22 Exhibits No. 1 and 2 admitted ----- 149

1 THE COURT: Good morning, everyone. Let's
2 have appearances in the new case, CLSF, I assume
3 that's III IV, Inc.; correct?

4 MR. GOLD: Yes, Your Honor, that's correct,
5 for the name of the entity.

6 Dan Gold, Ehrenstein Charbonneau Calderin,
7 for the group of individuals and outfit called MQIC,
8 that are the petitioning creditors this morning.

9 THE COURT: Good morning, Mr. Gold. Mr.
10 Elam.

11 MR. ELAM: Good morning, Your Honor. Brett
12 Elam on behalf of the alleged debtor, CLSF, III IV,
13 Inc.

14 THE COURT: So it's probably III IV, Inc.?

15 MR. ELAM: Yes, sir.

16 THE COURT: Okay. Very good. Yes.

17 MR. O'QUINN: Good morning, Your Honor.
18 Ryan O'Quinn on behalf of the petitioning creditors.
19 There's a motion pending, I believe, for my admission
20 pro hac vice.

21 THE COURT: Which I saw. I assume there's
22 no objection.

23 MR. ELAM: No, Your Honor.

24 THE COURT: That would be granted by the
25 usual form order. Yes. Anybody else?

1 MS. FEINMAN: Good morning, Your Honor.
2 Heidi Feinman for the U.S. Trustee.

3 THE COURT: Good morning, Ms. Feinman.
4 Mr. Charbonneau, you want to be silent?

5 MR. CHARBONNEAU: I probably will be, Your
6 Honor, but just for the record, Robert Charbonneau for
7 the petitioning creditors.

8 THE COURT: All right, gentlemen. You can
9 all have a seat, please.

10 MR. ELAM: Your Honor, before we start, I
11 would just like to -- I would just like to say that
12 we have not been properly served. We have just gotten
13 involved in this case. There's no certificate of
14 service on the docket. We ask that we could continue
15 this hearing until Monday so that we could be properly
16 prepared, properly served.

17 In the motion the petitioning creditors
18 assert that the policy that's at issue could lapse.
19 We do have proof that that policy has been paid, the
20 premium has been paid, and it will be current through
21 September 22nd. So I don't really see any type of
22 damage or harm from the continuance.

23 THE COURT: Mr. Gold, did you have a chance
24 to talk before the hearing?

25 MR. GOLD: We did. And in fact, just a few

1 moments ago Mr. Elam showed me the transfer receipt
2 that I believe he's identifying as the payment for the
3 policy premiums.

4 Before we get into the defenses to the
5 presentation I would like to make for why a trustee
6 should be appointed, just a point about service, Your
7 Honor. I understand that Mr. Elam makes the point
8 about service not being properly perfected, I guess.

9 THE COURT: Of what? I'm asking of what.
10 There's two things. The summons was just issued
11 yesterday.

12 MR. GOLD: The summons was just issued
13 yesterday.

14 THE COURT: Obviously it can be served by
15 mail. I don't know whether it's been mailed. And
16 then there's the issue with regard to this hearing,
17 the notice of hearing, and the accompanying motion.

18 MR. GOLD: Yes. The involuntary petition,
19 the motion to appoint the trustee, and the renote of
20 hearing that set the hearing for 10:30 as opposed to
21 the previous notice of hearing.

22 Your Honor, our process server made efforts
23 to serve the alleged debtor at two locations. The
24 first address is the address found on Sunbiz, which is
25 the address that the debtor provided for itself with

1 the Secretary of State, 631 U.S. Highway 1, I believe
2 is the address on the Secretary of State web site.

3 THE COURT: Which is also the address --

4 MR. GOLD: The registered agent, correct,
5 which is where we first attempted service of the
6 pleadings that I had just identified to you.

7 When our process server arrived at that
8 location, she discovered that the office space there
9 is actually vacant and there's a for rent sign on it.
10 So service there was impossible.

11 She's also in the -- well, my office I
12 should say, is in the process of uploading an
13 affidavit of service from the process server detailing
14 the attempts that she made to serve you -- sorry, to
15 serve the debtor.

16 The second address --

17 THE COURT: I did get that (laughter).

18 MR. GOLD: You did get the pleadings, that's
19 right, you did.

20 THE COURT: It's very large. It doesn't
21 look big on my iPad, but when I scroll through --

22 MR. GOLD: Yes. It was expensive, for which
23 I apologize up front, but there was a lot of necessary
24 information that had to be attached to that.

25 The second location, and I believe is the

1 fourth -- it's either 4235 PGA Boulevard, number 271,
2 or 4325 PGA Boulevard, number 271, which is, in fact,
3 a post office box. Our process server has photographs
4 of both locations, so service was, let's say
5 impossible. I wouldn't say that it was intentionally
6 thwarted, but certainly it was very difficult to
7 affect personal service on this package.

8 In part, because the address on Sunbiz is
9 not current, and if you're going to affect service on
10 the alleged debtor for a hearing of this sort, you
11 would think the address would be current, but it's
12 not. So that was one disabling condition.

13 As I said, our process server has forwarded
14 her affidavit on to our office, it's in the process of
15 being uploaded, but these were the activities she
16 undertook yesterday in the afternoon.

17 The other thing I would like to point out
18 about that is, Mr. Elam is, in fact, here. We did
19 notice Ms. Peck's litigation counsel with all of the
20 pleadings that we filed, the involuntary petition, the
21 motion, the exhibits, and the rennotice of hearing.

22 I had some dialogue with him over the e-mail
23 and asked him after our efforts to serve Ms. Peck at
24 the two addresses failed, do you have another address
25 at which we can serve her, to which I didn't get a

1 response that said, yes, please serve her here. I got
2 a response that said, well, you're counsel in the
3 bankruptcy case, you'll figure it out, and no, I won't
4 give you a fax number.

5 So we took the efforts that I think were
6 reasonable under the circumstances. Ms. Peck is here,
7 Mr. Elam is here. I believe the allegations as set
8 forth in the motion, the reasons why the appointment
9 of an interim trustee immediately and for the benefit
10 of the petitioning creditors, is a separate issue for
11 whether we go forward today, but I'm eager to make my
12 presentation.

13 THE COURT: Let me address one service
14 issue. Was this mailed, the summons, was it mailed?

15 MR. GOLD: The summons may have been mailed
16 by U.S. mail. I don't know what we've done with the
17 summons that was issued late yesterday. I couldn't
18 tell you off the top of my head.

19 THE COURT: So you mean the petition may
20 have been mailed? You just said the summons may have
21 been mailed, but you don't know what was done with the
22 summons?

23 MR. GOLD: No, I'm sorry. We attempted to
24 serve the petition. The summons was issued late
25 yesterday.

1 THE COURT: Understood. You don't know
2 whether it was mailed?

3 MR. GOLD: No, I don't.

4 MR. CHARBONNEAU: Judge, just a quick point,
5 and I think maybe the Court may have picked up on it
6 in its opening remarks. We're talking about service
7 versus notice.

8 THE COURT: I'm aware of that. I'm aware of
9 that.

10 MR. CHARBONNEAU: Okay. And I think that
11 we have gone over and above what is required of us
12 under the rules to provide notice of this hearing to
13 the alleged debtor and its principal. Service, as you
14 know, can be effectuated by us under 7004. We've also
15 gone above and beyond what is required under that rule
16 and in the process of effectuating service are more
17 than happy to. But I would submit, Your Honor,
18 that --

19 THE COURT: Let's hear about, what notice
20 was given of today? Everything you said has to do
21 with today as well?

22 MR. GOLD: Yes.

23 THE COURT: Including talking with counsel.
24 And when you said the process server went around, that
25 was with the motion and the notice of the 10:30 time?

1 MR. GOLD: Yes, Your Honor.

2 THE COURT: All right. Understood. Yes,
3 Mr. Elam.

4 MR. ELAM: Your Honor, I would just like to
5 point out that while Mr. Gold said that there were
6 several addresses that they had tried to serve Ms.
7 Peck, on the declaration attached to their petition it
8 states Ms. Peck's home address, 128 Victoria Bay
9 Court, Palm Beach Gardens, Florida, 33418. Nobody
10 ever tried to go there.

11 THE COURT: So but why do they have to go
12 there? They're not serving her personally, she's a
13 representative; correct?

14 MR. ELAM: If they wanted to make sure that
15 she had service, I would think that if they had
16 that --

17 THE COURT: Well, didn't they -- they spoke
18 to a lawyer. Did the lawyer not contact her?

19 MR. ELAM: I'm not sure --

20 THE COURT: How did you find out about the
21 case?

22 MR. ELAM: -- I spoke with Ms. Peck.

23 THE COURT: So she found out somehow, and
24 there's actual notice.

25 MR. GOLD: And the lawyer indicated, his

1 name is Michael Glazer, I have an e-mail where he
2 says, Mr. Gold, I briefly spoke with Ms. Peck about
3 your filings. She has now been served as of 4 or 5
4 p.m. Eastern time today, and then he makes his
5 representations about proper service. But he clearly
6 spoke to Ms. Peck.

7 THE COURT: Let me just let you all know,
8 service under Rule 7004 can be effectuated by mail for
9 everything that is so far at issue in this case.

10 So unless, Mr. Elam, you tell me that an
11 address different from that shown on the web site for
12 Florida, which the mail may come back, and frankly,
13 I will not care, unless you give me an address that's
14 different from that, I am going to direct the
15 petitioning creditors to serve your client by mail by
16 mailing to the address shown on Sunbiz. This is your
17 chance to tell me that there's a different address
18 that should be used for the debtor. Whether it be Ms.
19 Peck or somebody else, I simply do not care.

20 MR. ELAM: Your Honor, I would suggest that
21 we use the address that I had just --

22 THE COURT: Somebody's home address?

23 MR. ELAM: Yes. So that it gets to Ms.
24 Peck.

25 THE COURT: That will be the debtor's

1 official address for purposes of this case.

2 MS. PECK: The PGA Boulevard address.

3 MR. ELAM: Also the PGA Boulevard --

4 THE COURT: Choose one, one address. And
5 then after the service of the summons, since you've
6 made an appearance, you get served.

7 MR. ELAM: Yes. That's fine. 128 Victoria
8 Bay Court, Palm Beach Gardens, Florida, 33418. And
9 then obviously, as you say, thereafter I can be
10 served.

11 THE COURT: Correct. All right. But for
12 purposes of today, I want to hear the presentation,
13 because I will reconsider the request for a
14 continuance, but only after I hear the presentation of
15 why I should consider an interim trustee. You
16 understand --

17 MR. ELAM: Yes, sir.

18 THE COURT: Very good. And then of course,
19 you can respond to renew your motion. Yes, Mr. Gold.

20 You should both know that I read everything
21 that you filed. Mr. Gold. So including the
22 attachments. I don't read Dutch, but I'm hoping that
23 the translation is certified.

24 MR. GOLD: Yes. The translation was, in
25 fact, certified. And the certification from the Dutch

1 of the FIOD report that you were referencing appears
2 on the last page of the translation.

3 Then I will make my opening presentation
4 brief, because we're going to do this in two parts.
5 The first is that I think a brief explanation of the
6 structure of the funds and the flow in investor funds
7 is important for today's purposes.

8 THE COURT: It would be helpful to me. I
9 did read it, but hearing it again, will certainly be
10 helpful.

11 MR. GOLD: Certainly. And I figure for,
12 actually for the benefit of everybody in the
13 courtroom, that would be something that would be
14 appropriate.

15 In terms of what we're here for today, as
16 you know, we filed an emergency motion on behalf of
17 the petitioning creditors to appoint an interim
18 trustee on an immediate emergency basis.

19 As Mr. Elam points out, his client has
20 apparently forwarded premium payments to preserve the
21 underlying policy that we've alleged in our papers is,
22 or perhaps no longer, but as far as the information
23 that we had as of the date of filing the motion, was
24 in peril of lapsing.

25 There were a number of communications that

1 led us to believe that, but that's perhaps one prong
2 of the factors that would go into the Court's
3 determination of whether an interim trustee should be
4 appointed immediately.

5 Just by way of a little bit of background
6 however, to identify and let you know who our
7 petitioning creditors are, our petitioning creditors
8 are individuals and a collective organized under
9 Belgium law, which is actually called a stichting.
10 The stichting goes by the name of MQIC, which is the
11 Maatschap QI Collectief, and QI stands for Quality
12 Investments. It was a body that was organized after
13 the fact of the, as we've identified in our papers,
14 the PCI fraud came to light.

15 So what happened, Your Honor, was, Provident
16 Capital Indemnity, which is the reinsurer that was
17 chosen by the organizers and issuers of these
18 investment offerings, paid policy premiums to PCI in
19 part to provide what we describe as maturity bonds,
20 which are the bonds that stand behind the life
21 insurance policies and will pay out in case the life
22 insurance policies do not pay out on time.

23 So this is a collective body, MQIC, that
24 represents and acts on behalf of as many as -- or
25 actually, I'm sorry, more than 700 investors, holding

1 more than, I believe 96 million dollars in claims
2 against the network of funds identified as the CLSF
3 funds.

4 There are also the BGI funds and the LSF
5 funds that are all organized and offered through
6 Quality Investments.

7 THE COURT: Does the structure for MQIC have
8 some parallel in the United States law that might be
9 helpful in understanding its role?

10 MR. GOLD: How would I -- how to properly
11 characterize it. It is almost like a governing body,
12 or a policy board, or a policy body that's created,
13 let's say by a group of, who would be class action
14 plaintiffs. So you could almost -- you could almost
15 analogize it to a body like an unsecured creditors'
16 committee in a bankruptcy case.

17 THE COURT: Is there an agency relationship?

18 MR. GOLD: Yes. There are powers of
19 attorney, there are powers to act, there are
20 responsibilities that are given to the representatives
21 of MQIC who are empowered to take certain actions on
22 behalf of the investors.

23 There are procedures for their reporting
24 back to the members. There are procedures for their
25 being replaced. There are procedures for their

1 resignation. It's actually a fairly elaborate set of
2 bylaws.

3 And just for Your Honor's information, the
4 petitioning creditors and the individuals, and in this
5 case MQIC had at least \$600,000 in claims against the
6 alleged debtor.

7 What I would like to do now, if I may,
8 before we get into specifics for appointment of the
9 interim trustee, is cede the floor for a moment to Mr.
10 O'Quinn, in part because Mr. O'Quinn is, I think the
11 best person to give the Court the general description
12 of how these funds were organized.

13 THE COURT: Thank you. Sir.

14 MR. O'QUINN: Good morning, Your Honor.

15 By way of background, I'd like to explain to
16 the Court a little bit about the nature of this
17 investment. I'm not sure if the Court is familiar
18 with a viatical or life settlement, but viaticals
19 arose out of the AIDS crisis and a secondary market in
20 insurance policies that covered terminally ill or
21 chronically ill individuals.

22 In approximately 2000 to 2002, by
23 development of medical diagnoses and treatments, a lot
24 of the critical elements of the viatical industry,
25 particularly AIDS as a chronic or terminal illness,

1 fell away as a great marketing tool. And the viatical
2 industry looked for other insurance policies of
3 terminally ill, chronically ill individuals to help
4 fill an investor demand for this type of investment
5 product.

6 Throughout the late 1990s and early 2000s
7 the retail sale of fractionalized insurance policies
8 to investors was ripe with fraud. It was something
9 that we witnessed here in South Florida, and it was
10 something that affected the entire nation. It turned
11 into a multi-billion dollar problem.

12 In approximately 2004 the Securities and
13 Exchange Commission brought a seminal case called
14 Mutual Benefits. The Mutual Benefits case was a case
15 that alleged false life expectancies and
16 misappropriation of premium escrow funds that left
17 investors who had invested in viaticals and life
18 settlements wholly exposed to almost certain loss.

19 The court -- the Southern District of
20 Florida issued an opinion in May of 2004 finding that
21 viaticals and life settlements were securities, a
22 decision that was appealed to the 11th Circuit, and in
23 May of 2005 that decision was affirmed by the 11th
24 Circuit.

25 The affirmation of the Southern District of

1 Florida's determination that viaticals and life
2 settlements were securities had a devastating effect
3 on the life settlement market domestically, because it
4 became clear that the issuers of these investment
5 contracts now fell within the regulatory ambit of the
6 Securities and Exchange Commission and its disclosure
7 and anti-fraud provisions.

8 It was in that climate that Quality
9 Investments was born. A group of individuals who were
10 familiar with the sourcing of life insurance policies
11 now had the market for their policies decimated. And
12 what they did is, they organized a new business,
13 Quality Investments, that was intending to take those
14 insurance policies, package them in the same manner
15 that they'd been packaged in prior years, but now to
16 form a foreign entity and to sell them off to
17 international investors in a sale that was
18 specifically intended to evade U.S. regulatory
19 oversight.

20 From approximately 2005 through 2010 this
21 offering developed and changed in some ways, but
22 generally stayed fairly similar to offerings that the
23 Court may be familiar with, the Financial Federated
24 Viatical offering, or the Mutual Benefits offering,
25 where investors were promised a significant return

1 based on a life expectancy of an insured where the pay
2 out of that would either be annualized in the BGI
3 funds, or in a lump sum payment at the end of the CLSF
4 funds.

5 The organizers of the Quality Investments
6 fraud dealt with the life expectancy fraud problem by
7 representing to investors that they had the ability to
8 go into the market and buy reinsurance from an
9 undisclosed reinsurer that they made representations
10 about the safety and solvency of this company, but
11 told investors that the identity of this company was a
12 proprietary secret.

13 So the investors were told that their
14 payment, their investment in this insurance policy was
15 reinsured, and the payment of their return was a
16 guaranteed payment on a date certain, and that there
17 were virtually no risks that could adversely impact
18 the timing date of that investment.

19 Investors were told that the investments
20 they were making were in American insurance policies
21 that would be overseen by an American attorney. And
22 they were specifically told in the offering documents
23 that these investments would be overseen by a licensed
24 attorney who would be subject to disciplinary rules
25 and all of the accruments that go with a member of a

1 Bar of the United States.

2 Investors believing that these investments
3 were sound and guaranteed, and would return between 8
4 and 15 percent in annualized returns, were told to
5 wire their funds directly to an attorney trust account
6 in the United States where those funds would be
7 safeguarded and held for the purpose of acquiring the
8 insurance policy, and importantly, for the maintenance
9 of that insurance policy through the payment of
10 premiums.

11 Unfortunately, the documents in this case
12 differ slightly from the actual structure of the
13 fraud. So when the Court is looking at this issue,
14 the Court needs to take notice of whether or not
15 you're looking at the form that was presented to
16 investors prior to the investment, or the form that
17 the investment actually undertook when they collected
18 the money and executed the acts in furtherance of what
19 essentially is the scheme.

20 Investors sent their money to an attorney
21 trust account in New Jersey. That money was used to
22 purchase an insurance policy, to put that policy into
23 a Florida corporation so that it could be held by that
24 Florida corporation, and the expectation was that the
25 premium payments on that policy would be continually

1 made through the end of that maturity date or the
2 collection on the maturity bond.

3 Unfortunately what happened is the money in
4 those trust accounts was misappropriated leaving these
5 policies exposed to the longevity risk of a maturity
6 date that is exceeded by the insured.

7 The revelation that the PCI fraud was, in
8 fact, a fraud, and a fraud that we believe was
9 somewhat independently operated from some of the other
10 acts of fraud that we'll be talking about in this
11 case, when the PCI fraud was revealed it became
12 apparent that the guaranteed pay out date was now
13 somewhat threatened. And it began to unravel
14 ultimately the Quality Investments offering. And I
15 think that Mr. Gold will be going into some of the
16 aspects of that bad conduct and its effect on the
17 investors and their needs at this time.

18 But essentially what you ended up with in
19 this fraud is investors who, based on material
20 misrepresentations, wired money to a U.S. account for
21 the purpose of purchasing, packaging and holding
22 insurance policies. Those insurance policies were
23 each placed into an individual corporation, and that
24 corporation was the legal owner and the beneficial
25 owner of that insurance policy, and is the holder of

1 the res that is the subject of each investor's claim.
2 So an investor has a specific corporation, and a
3 specific claim against that corporation, for the
4 amount of their anticipated pay out.

5 THE COURT: And this debtor, the alleged
6 debtor, is just one of these many corporations?

7 MR. O'QUINN: One of approximately 60, yes,
8 Your Honor.

9 Thank you, Your Honor.

10 MR. GOLD: And as Your Honor just pointed
11 out, and probably shouldn't come as a surprise to you,
12 this particular involuntary case is one among what we
13 can anticipate to be many, as you probably found for
14 yourself.

15 In this instance what we have are the
16 requisite number of petitioning creditors against this
17 particular entity. We're lining up others. But this
18 case is instructive in a couple of respects.

19 One, this case is paradigmatic for the rest
20 of certainly the CLF cases in the sense that we have
21 investors who invested in the fund, and in reliance on
22 the prospectus which served as the basis and the model
23 for all other subsequent CLSF funds and CLSF
24 prospectuses.

25 One of the things with prospectus that we've

1 attached to the motion to appoint the trustee says is
2 that it does, in fact, serve as the basis for other
3 similar offerings that are going to be made by the
4 organizers of the CLF funds by this outfit we call QI,
5 Quality Investments.

6 Why we're here today. As you've also heard,
7 is that the investors, through their various
8 communications with Quality Investments and with Ms.
9 Peck herself, were extremely worried about their
10 investments, had no indication obviously of when a pay
11 out would come, in part because of the PCI fraud, but
12 in part because of the communications that they were
13 receiving through Ms. Peck's office.

14 As Your Honor knows, the standard to appoint
15 an interim trustee is potential wasted assets,
16 concealment, and dissipation of the same.

17 Mr. Elam this morning just before the
18 hearing showed me a wire confirmation. He claims that
19 the wire confirmation is a confirmation that the
20 premiums on this particular policy, on the policy
21 that's being held by CLSF III IV, Inc., has, in fact,
22 been paid. The wire transfer confirmation is dated
23 August 21st. So we filed our motion on August 22nd.

24 I couldn't tell you a couple of things about
25 the transfer. I could certainly look at the face

1 amount and see how much was transferred. I can also
2 look at the wire transfer confirmation and see that
3 it's tagged to, I'm looking around the courtroom to
4 make sure we're only among the folks here who are
5 authorized to be here and we don't have any other
6 calendar folks here, it's the Herkowitz policy.

7 I've taken pains where possible to redact
8 the policy number or the policy name because these are
9 folks who are still alive and may not want to see
10 their name in the paper --

11 THE COURT: I saw. But does it show the
12 recipient and indicate its purpose on the wire
13 transfers received?

14 MR. GOLD: I would have to look again at the
15 wire transfer confirmation. The recipient is Wells
16 Fargo Bank. It's debited out of Ms. Peck's account.
17 There's the account number. And it says the template
18 name is Robert Herkowitz, the name of the underlying
19 insured, CLSF III-IV. It appears to come out of --
20 originator information is Deborah C. Peck, Esquire,
21 631 U.S. Highway 1, Suite 303, North Palm Beach,
22 Florida, which is the address also of the registered
23 agent, Ms. Peck, and the alleged debtor. And it says
24 premium payment policy JF5516678. So it looks like
25 it's penned to the right policy.

1 THE COURT: And Wells Fargo is the
2 appropriate recipient?

3 MR. GOLD: I don't know, because I believe
4 that the underlying -- the underlying carrier is
5 Jefferson Pilot for this particular policy. I think
6 it's Jefferson Pilot. It says Lincoln Financial
7 Group, which I may just have the name of the carrier
8 wrong. I could look very quickly and see if I've got
9 the right one.

10 THE COURT: Well, you had three concerns,
11 there are other concerns, but there was a concern with
12 regard to the policy terminating as a result of the --

13 MR. GOLD: It's really with regard to the
14 policy terminating.

15 THE COURT: Concern with regard to its
16 potential transfer.

17 MR. GOLD: Yes.

18 THE COURT: And a concern with regard to
19 other transfers of funds which may be held in trust
20 for the benefit of this entity.

21 MR. GOLD: That's right, Your Honor. So
22 there are some things that we don't know. Even if we
23 know now that a payment has been made presumably to
24 preserve a policy, we don't know where those funds
25 came from.

1 It would be me speculating, but I don't
2 know, and based on the report of the FIOD, I would be
3 highly skeptical that the funds used to make that
4 payment would have been what are termed in the CLSF
5 prospectus as the premium buffer, which, to just give
6 a very brief explanation of that is, when an investor
7 made their initial investment through Quality
8 Investments, and made their payments to Ms. Peck's
9 trust account, there were two payments that were
10 subtracted from that original investment for payment
11 of premiums of the life insurance on the one hand, and
12 the reinsurance, the maturity bond on the other. I
13 believe the payment on the maturity bond was roughly
14 24, or 25,000 that was paid all in one payment and
15 basically prepaid the entire amount that any investor
16 was supposed to pay to secure the maturity bond.

17 The other two components for the life
18 insurance were roughly 13,000 and change each. So any
19 investor's contribution in the original -- or the
20 initial contribution was broken down into increments
21 of at least 240,000. So of that 240,000 at least
22 13,000 was supposed to go to an initial, I'll call it
23 an initial, premium payment, and there was supposed to
24 be another 13, an identical amount, 13,000 and change,
25 13,100 and something, reserved for what the prospectus

1 called the premium buffer. The premium buffer, as you
2 can imagine, was supposed to be that amount held in
3 reserve in case premium payments had to be made over a
4 longer period.

5 In this particular instance, I don't imagine
6 that the payments that may have been made to preserve
7 this policy were made out of the premium buffer. It
8 seems unlikely after all of the things that the FIOD
9 did regarding the various transfers in and out of Ms.
10 Peck's trust account. Which brings me back to why
11 we're here and why we're seeking a trustee.

12 Ms. Peck may have made a transfer here to
13 preserve the policy. There are a couple of things
14 that we don't know. We don't know if there are any
15 funds remaining in this alleged debtor. We don't know
16 if any funds remaining from those original investor
17 payments remain, what their status is, how much,
18 what's happened to them. It sounds like, based on the
19 payment being made, that the policy has't been
20 transferred.

21 However, as we've detailed in the motion
22 and the the exhibits attached thereto, there
23 definitely been several attempts and several
24 meaningful conversations regarding potential
25 transfers.

1 THE COURT: This was actually noted
2 apparently in the letter to investors.

3 MR. GOLD: It was. In fact, Ms. Peck, I
4 believe said she would have no choice but to sell
5 certain policies to preserve others. Now, that may be
6 a triage strategy that has a kind of facial appeal,
7 but it's certainly not what's authorized under the
8 prospectuses, it's not what the investors expected,
9 and what it would also do is use funds or use assets
10 of one set of investors who invested in one fund to
11 preserve assets in another fund.

12 Which we could talk at the appropriate time
13 about whether or not that's a breach of fiduciary
14 duty. But it's certainly not something investors in
15 any particular fund would want to see happen if their
16 assets were used to preserve assets in another fund
17 for the benefit of a different group of investors.

18 So as you can see, sort of the nature of
19 this case is going to in part determine and kick off
20 activities that -- or activities is the wrong word,
21 I'm sorry, the pursuit of remedies that are going to
22 have ripple effects throughout the entire network of
23 funds.

24 One of the things that the investors would
25 like to see, and certainly urge you to consider very

1 strongly, is that Ms. Peck has lost the trust. Ms.
2 Peck's history of transfers as outlined in the FIOD
3 report is certainly disturbing.

4 It may be the case that a transfer of funds
5 in this case was made to preserve this particular
6 policy. But what we don't know is what the general
7 tenor, what the general conduct of transfers in and
8 out of her trust accounts in general have been. And
9 what the extent of lost money is. According to the
10 FIOD, it's more than 140 million dollars.

11 I couldn't tell you standing here today how
12 much money may have been misappropriated through this
13 debtor, or whether any money has been misappropriated
14 through this debtor. But what I can tell you is,
15 because of the seriousness of the allegations, even if
16 a trustee is not appointed today, we definitely will
17 push to have a trustee appointed eventually, and that
18 eventuality, I think is undeniable.

19 But we're going to pursue and use every
20 discovery device available to retrieve as much
21 information as we can, because as the FIOD has
22 outlined, the extent of the transfers, the extent of
23 misappropriation of investor funds, is certainly
24 alarming, and is more than half of the total of
25 investor funds that were processed through Ms. Peck's

1 trust accounts.

2 So in essence, yes, we're here today to
3 appoint a trustee over this particular alleged debtor,
4 but the implications of that are obviously much
5 grander, much more serious. And we're not hiding the
6 fact that we're telegraphing a much larger effort
7 here.

8 MR. CHARBONNEAU: Your Honor, may I have a
9 moment with Mr. Gold?

10 THE COURT: Yes, of course.

11 MR. CHARBONNEAU: Beg your pardon, Your
12 Honor.

13 MR. GOLD: I'm sorry, Your Honor.

14 Two more points to be made. One, in
15 relation to the sort of general allegations of fraud
16 and the extent of, certainly suspect transfers, the
17 fact that a payment may have been made to preserve
18 this policy, as I pointed out before, doesn't sanitize
19 the origin of payment.

20 Like I said before, we don't know where the
21 money for that payment came from. We don't know if
22 it's our investor's money, we don't know if it's other
23 investors' money. But what we do know is that Ms.
24 Peck herself has represented to the investors that she
25 would be, the word she used in, I believe in a March

1 25th e-mail, or March 25th letter to investors, is to
2 collectivize premiums, and basically to use premiums
3 to pay off lapsing policies on an imminent danger, or
4 imminent danger of lapsing basis, which again, is not
5 authorized by -- it doesn't authorize her to do that
6 under the prospectuses. It's also again, a
7 co-mingling of investor funds in a way that was not
8 the bargain that was struck, was not the contractual
9 expectation that the investors had with her.

10 More to the point though, we don't again, we
11 just don't know the providence of where the moneys are
12 coming for any particular premium payment. In this
13 particular instance, maybe the right one has been
14 made. We don't know what the source of the money is.

15 Point two, and just as important for today,
16 as Your Honor touched on when we had our discussion
17 about service, this particular entity has been
18 administratively dissolved for more than a year on the
19 Florida Secretary of State's web site. And as our
20 difficulties trying to get this alleged debtor served
21 with notice of hearing today, that's become all too
22 clear.

23 We don't have an operating debtor here. The
24 potential harm, or the kind of things that Rule 2001
25 and Section 303(g) talk about regarding a debtor don't

1 apply here. In this instance Ms. Peck has held
2 herself out as a fiduciary for the investors. As
3 we've pointed out, based on her representations to
4 them, the facts as found by other investigatory
5 bodies, they have no confidence in her to act as their
6 fiduciary.

7 In this instance we need an independent
8 fiduciary to start investigating not just the
9 transactions of this particular debtor, but the
10 debtors in general. This is an intertwined,
11 inextricably intertwined network of companies. The
12 extent, the volume, the magnitude of intercompany
13 transfers, this is something that certainly has to
14 start being investigated. We don't know what it will
15 find.

16 Certainly we're skeptical that we're going
17 to see the adherence to corporate formalities, the
18 authorizations that would be required for some of the
19 transfers to have been made. There were clearly a lot
20 of words here, Your Honor.

21 And in this particular instance, we don't
22 have an operating debtor. In fact, we don't even have
23 a debtor that's up to date with the Florida Secretary
24 of State.

25 What we have is a debtor whose affairs need

1 to be wound down. And the Florida statutes, even for
2 an administratively dissolved entity, will allow that
3 debtor to, in essence, be a party to a lawsuit for the
4 very purpose of winding down its affairs.

5 THE COURT: The solution doesn't prevent
6 from being a defendant in any lawsuit.

7 MR. GOLD: That's correct, Your Honor.

8 So part of the factors that compel
9 appointment of a trustee is, this debtor has held
10 itself out as basically being defunct at the 11th hour
11 through Ms. Peck. It takes an action to hopefully
12 preserve a policy, may be fend off a proceeding just
13 like this. But the hour is just too late.

14 We need our independent fiduciary in there.
15 We need to start discovery right away. We need to get
16 to the bottom of the magnitude, the type, and the
17 authorization for the transfers. And as I just said,
18 this is one among what will be dozens of cases.

19 And Your Honor, if you would like to
20 consider it now, the exhibits that we have attached to
21 our motion, we've prepared an exhibit register, I'd
22 like to move those in. I don't think that there's
23 dispute regarding them. Since the source of several
24 of them is Ms. Peck, I think if I had to I could put
25 her on the stand to authenticate them, but I'll leave

1 that up to your discretion. What I would like to do
2 now is present you with an exhibit register.

3 THE COURT: You can hand it up has. Has Mr.
4 Elam had a chance to look at this? Is it identical to
5 what's attached?

6 MR. GOLD: It is identical to what's
7 attached.

8 THE COURT: Take a moment, Mr. Elam, and let
9 me know if you have an objection.

10 THE COURT: Over here is fine. And they're
11 numbered identically?

12 MR. GOLD: These are numbered. I believe
13 when they were attached to the motion they were
14 lettered, but they're in the same order.

15 THE COURT: Yes, Mr. Elam.

16 MR. ELAM: Your Honor, I have an objection
17 to the FIOD report. There's nobody here to testify to
18 the accuracy of this report. It's been translated.
19 There's nobody here to testify.

20 THE COURT: Well, the translation is
21 certified.

22 MR. ELAM: But there's nobody to testify
23 to the accuracy of the underlying report. The person
24 that kept it under the business records, I don't think
25 that that's --

1 THE COURT: So that's a hearsay objection?

2 MR. ELAM: Yes, sir.

3 MR. CHARBONNEAU: Your Honor, it falls under
4 the hearsay objection under 803, I can't recall right
5 this second the subsection, as an official document of
6 an official government agency. Even one that is
7 extrajudicial outside of the United States can be
8 admitted through judicial notice by the Court.

9 THE COURT: So I would normally -- let's
10 assume hearsay applies just for a moment. I would
11 normally consider evidence in connection with how it
12 was maintained and why. I can conclude that based
13 solely on the report.

14 MR. CHARBONNEAU: Judge, as I understand it,
15 we're looking at Federal Rule of Evidence 9025, and it
16 says, a foreign public document is considered self
17 authenticating if it is evidenced by an official
18 publication or it purports to be executed in an
19 official capacity by a person authorized to do so by
20 the laws of the foreign country, and is accompanied by
21 a final certification of genuineness by a diplomatic
22 or consular agent of the United States, or by a
23 diplomatic or consular official of a country foreign
24 assigned or accredited to the United States.

25 So Judge, the certification as to the

1 translation is --

2 THE COURT: Is from a consular body, is that
3 what you're saying?

4 MR. CHARBONNEAU: The certification?

5 THE COURT: Yes.

6 MR. CHARBONNEAU: May I have a moment, Your
7 Honor?

8 THE COURT: Just let me ask this question.
9 It wasn't an authentication objection, it was hearsay?

10 MR. CHARBONNEAU: It was. It was. And
11 Judge --

12 THE COURT: Mr. Elam, are you suggesting
13 it's not authentic?

14 MR. ELAM: Both, Your Honor.

15 THE COURT: Oh, you are?

16 MR. ELAM: Yes. I'm sorry, yes, both.

17 MR. CHARBONNEAU: There are a number of
18 cases that I can cite to the Court where similar
19 documents were offered into evidence and the Court
20 took judicial notice of them, if the Court has a
21 moment to --

22 THE COURT: I'd be glad to take that. Let
23 me just point out to you that at least I view this
24 motion to be very similar to a preliminary injunction.
25 A preliminary injunction standard does not directly

1 apply, but when you read the case law in connection
2 with requests for appointment of a trustee during the
3 gap period, the standard is very, very similar.

4 Two Circuits have ruled that the hearsay
5 rule doesn't apply at all in that context, and one, I
6 can't remember which, either the 7th or the 10th, has
7 ruled that no rules of evidence apply at the
8 preliminary injunction stage. I don't see why the
9 standard should be different here.

10 And let me say why, but I don't think it
11 should be different. The 11th Circuit has not ruled
12 on this, by the way. The reason I don't think it
13 should be any different, although the case law in this
14 context does not use the phrase, substantial
15 likelihood of success on the merits, the weighing
16 process is very, very similar. And in general what
17 I'm looking at is, reason to believe one way or
18 another.

19 And if I had to have evidence which
20 satisfied the hearsay standard in every regard, there
21 would never be an interim trustee appointed, because
22 by the time we had a hearing on it, if the allegations
23 were true, there wouldn't be any assets left in the
24 case.

25 So I will overrule both objections. But if

1 you wish to point out for the record, it may be
2 helpful, reasons why this is not hearsay, and why it
3 is self authenticating, please do it.

4 MR. CHARBONNEAU: Judge, one of the cases
5 that we would rely on is United States versus Pluta,
6 P-l-u-t-a. It's a 3rd -- excuse me, 2nd Circuit case,
7 Your Honor, 176 F 3d 43. And in that case the Court
8 held that the hearsay exception of Rule 8038 includes
9 public records kept by the United Nations and foreign
10 governments.

11 FIOD, being a public agency of the
12 Netherlands, and this report issued by them, falls
13 within that, the purview of the ruling of the Pluta
14 case.

15 Similar cases, Judge, In Re Korean Airlines
16 Disaster of September 1st, 1983. And Your Honor, as
17 Mr. Gold points out, the very top of the first page of
18 the FIOD report says, official report of finding
19 detailed description of money trails. So it is an
20 official report, Your Honor, of a governmental agency
21 of the Netherlands.

22 THE COURT: All right. But the
23 authentication provision that you cited to me before
24 requires that there be essentially a consular
25 certification, doesn't it?

1 MR. CHARBONNEAU: Your Honor, it does.

2 THE COURT: I don't think I have that. I
3 have a translation certification, which is Exhibit 2,
4 or what's referred to as Exhibit 2, and that's
5 certified. Otherwise -- certified? I'm sure that it
6 is. I don't think it's certified under 902, it's self
7 authenticating.

8 MR. CHARBONNEAU: I just want to make sure,
9 Your Honor, that we don't have something else in that
10 regard.

11 THE COURT: Absolutely.

12 MR. CHARBONNEAU: Judge, we'd rest on, and
13 we feel that the Court can make an easy ruling, that
14 8038, the exception to the hearsay rule, applies for
15 this public record kept by a foreign government.

16 With respect to authentication, Judge, I'm
17 not sure, perhaps we could sidestep that issue under
18 9025 by the Court simply taking judicial notice, as I
19 believe the Courts in Pluta and the Korean Airlines
20 Disaster case did.

21 THE COURT: Which provision did you cite in
22 902? Foreign public documents?

23 MR. CHARBONNEAU: Yes, sir.

24 THE COURT: Sub 3?

25 MR. CHARBONNEAU: I had 5, Judge, but that

1 could be a misprint.

2 THE COURT: I hope I have the most current
3 one. I'm not sure it satisfies. I had it as to 902
4 Sub 3.

5 MR. ELAM: 902 Sub 3, Your Honor.

6 THE COURT: I don't think it satisfies
7 necessarily 902 Sub 3. There is a savings provision
8 which would allow the parties, meaning Mr. Elam and
9 his client, to test the document and let me know
10 whether they believe this is not authentic.

11 MR. CHARBONNEAU: Right. The savings
12 provision of 902, is that correct, Judge?

13 THE COURT: Correct, yes.

14 MR. CHARBONNEAU: Reasonable opportunity.

15 THE COURT: Correct. And it's specifically
16 addressed in 902 Sub 3, or isn't it to be treated as
17 presumptively authentic, if all parties have been
18 given as a reasonable opportunity to investigate,
19 well, you would have to -- an investigation didn't
20 happen between yesterday and today.

21 MR. CHARBONNEAU: Right. So the way I'm
22 reading the rule, Your Honor, then is if we
23 conditionally admit it subject to whatever reasonable
24 efforts Mr. Elam wants to undertake to test the
25 validity and the authenticity of the document.

1 THE COURT: Right. But you want me to rely
2 on it.

3 MR. CHARBONNEAU: For purposes of today,
4 Judge. The interim relief we're looking for --

5 THE COURT: I understand. I understand.
6 And that's not what the rule says.

7 Mr. Elam, you were standing.

8 MR. ELAM: No, Your Honor, I was just going
9 to say that there's no signature and there's no final
10 certification on this document, and I don't think that
11 it can conditionally be entered, and I do not think
12 that we've had reasonable time to inquire to the
13 validity of the document. So I don't think you can
14 rely on it for today.

15 THE COURT: Well, there are signatures.
16 They're just not on the translation part. They're at
17 the back of proposed Exhibit 1. It is signed. And I
18 should point out that the language above it appears to
19 be effectively an affidavit. So it's signed.

20 MR. ELAM: We don't think there's a consular
21 certification then.

22 THE COURT: I agree with that. And I also
23 agree that the condition that would allow me to find
24 that it is presumptively authentic has not happened.
25 I don't see how there could be an investigation. It

1 seems to me that there would have to be a reasonable
2 opportunity to investigate it. I kind of doubt that
3 it's been fabricated, but nonetheless, the
4 authentication rule is there.

5 Let me point out to you that the 10th
6 Circuit ruled in a case called Heideman,
7 H-e-i-d-e-m-a-n, at 348 F 3d 1182, which is the
8 preliminary injunction context, that none of the
9 Federal Rules of Evidence apply, the entire document,
10 nothing. And there's a good reason for that. And
11 I think this is a parallel standard. Have I gone to
12 look and see whether that law is the same in this
13 context? I have not. And I may take a break and go
14 and do that. But let's go on with the presentation.

15 Anything else you would object to, Mr. Elam?

16 MR. ELAM: Not at this point, Your Honor.

17 THE COURT: So it is acceptable to your
18 client, I admit everything other than 1 at this point?

19 MR. ELAM: No, Your Honor, we have no
20 objection.

21 THE COURT: Okay. I'm going to admit 2
22 through 12, inclusive.

23 (Exhibits No. 2 thru 12 admitted.)

24 THE COURT: Do you wish to call any
25 witnesses, Mr. Gold?

1 MR. GOLD: Yes, Your Honor. Ms. Peck is
2 in the courtroom. We would like to call Ms. Peck.

3 THE COURT: Okay. Ms. Peck. Good morning.
4 Why don't you come over to the witness stand. Please
5 remain standing. The court reporter will swear you in
6 and then you may have a seat.

7 THEREUPON,

8 DEBORAH C. PECK,
9 being by the undersigned notary first duly sworn to
10 testify the whole truth, as hereinafter certified,
11 testified as follows:

12 THE WITNESS: I do.

13 THE COURT: Please have a seat. Just a
14 moment.

15 Ms. Feinman, are you still on the telephone?

16 MS. FEINMAN: I am, Your Honor.

17 THE COURT: Is there a transmission concern
18 with the sound today?

19 MS. FEINMAN: It's just very fuzzy,
20 Your Honor. It's in and out, but I can hear it, it's
21 just noisy, that's all.

22 THE COURT: Is it bad enough that we should
23 dial back in and see if it's the line that that we've
24 used to call in?

25 MS. FEINMAN: I'm fine, Your Honor, you

1 don't need to do that.

2 THE COURT: Everybody is moving, including
3 Ms. Peck, I'm about to ask you to move the microphone
4 close to you anyway, try to remember to use the
5 microphone. It's hard -- it's often easy to forget
6 that we have someone listening in on the telephone.
7 But those of you who have tried it in the past know
8 that it's often very difficult to hear what's
9 happening here unless you get as close as, I don't
10 really have a God complex, I get this close to the
11 microphone because I know that people can't hear on
12 the telephone unless I do it.

13 And Ms. Peck, make yourself comfortable. It
14 is useful to me and the court reporter if you use the
15 microphone. If there is any objection during your
16 testimony, do not answer until I've made it clear that
17 you should do so. Understood?

18 THE WITNESS: Yes, sir.

19 THE COURT: Any questions?

20 THE WITNESS: No, sir.

21 THE COURT: Thank you. Whenever you're
22 ready.

23 DIRECT EXAMINATION

24 BY MR. O'QUINN:

25 Q. Good morning, Ms. Peck.

1 A. Good morning.

2 Q. Can you tell me your full legal name?

3 A. Deborah Catherine Peck.

4 Q. Please describe your educational background.

5 A. Starting from high school.

6 Q. Starting from high school.

7 A. Graduated Kimberly School in Monte Claire,
8 New Jersey. Do you want the dates too?

9 Q. No.

10 A. Graduated and went to -- well, graduated
11 Yale University with a BA. Went to Columbia
12 University for a Masters Degree. Did not complete it.
13 However, simultaneously went to Seton Hall University
14 Law School for a JD, which I did complete. And that's
15 my professional.

16 Q. What year did you obtain your JD?

17 A. I think 1984. It's been awhile.

18 Q. After obtaining your JD did you sit for any
19 state bar exams?

20 A. I did.

21 Q. How many?

22 A. One.

23 Q. In your entire life how many bar exams have
24 you sat for?

25 A. Just New Jersey.

1 Q. Are you a member of any bar?

2 A. New Jersey.

3 Q. How long have you been a member of the New
4 Jersey Bar?

5 A. Since 1984, I believe.

6 Q. Have you been a member of the New Jersey Bar
7 continuously from 1984 until today?

8 A. I was inactive when I took maternity
9 leave.

10 Q. What time period was that?

11 A. My first daughter was born in 1992.

12 Q. Was that the only time that you were
13 inactive?

14 A. Well, through my second daughter's birth,
15 which was 1995, and I remained inactive for a few
16 years after that until they were both in school. I
17 don't know the exact date that I became active.

18 Q. Focusing on the time period from 2005 until
19 today, have you been an active member of the New
20 Jersey Bar?

21 A. Correct.

22 Q. Have you maintained an address of a law
23 office in New Jersey during that time period?

24 A. I have not.

25 Q. At any time during that time period

1 did you have a law office or a law address in New
2 Jersey?

3 A. At first I did. The home office rule in New
4 Jersey permits an attorney to have a foreign office,
5 so I had it at my parents' home initially. There was
6 a question about whether I was moving back to New
7 Jersey because I was divorced. I ended up staying in
8 Florida. The children continued to go to school here.

9 And I maintained an office here in Florida
10 until it became -- it came to my attention, through
11 other attorneys who I counseled with, that it was not
12 appropriate to have an office in Florida. What I did
13 was, continue to remain as trustee, because anyone can
14 be a trustee, you don't need to be an attorney, so
15 there is a time line where you see that I have a law
16 firm, as well as a trustee office, administrative
17 office.

18 Q. So to go back to my question, from 2005
19 until today, have you had an office in New Jersey?

20 A. I have not.

21 Q. Your sole law office was in the State of
22 Florida?

23 A. As I said, I had a law office here until the
24 changes, although they're not a legal change, but it
25 was a committee change from the Florida Bar

1 Association was such that I never practiced law in
2 Florida, ever, however, they were not as friendly to
3 foreign attorneys, even though New Jersey permits a
4 New Jersey attorney to have a foreign office.

5 Q. When did you make that change?

6 A. I don't know the exact date.

7 Q. What year?

8 A. I don't even -- I have to look back. I
9 don't know.

10 Q. Was it more than a year ago?

11 A. Probably about that.

12 Q. So it was approximately 2011?

13 A. I'd have to look back. I can't give you an
14 exact date.

15 Q. And prior to this change where you ceased
16 having a law office in the State of Florida, you
17 conducted your business from an office in the State of
18 Florida; is that correct?

19 MR. ELAM: Objection, Your Honor.
20 Relevance. We can stipulate that she's an attorney.
21 I don't know where he's going with this.

22 THE COURT: Overruled.

23 THE WITNESS: I'm sorry, what was the
24 question?

25 BY MR. O'QUINN:

1 Q. Prior to this change that you described in
2 your law office in South Florida, you maintained a law
3 office from 2005 until that date in approximately 2011
4 here in South Florida; is that correct?

5 A. I can't say I maintained a law office,
6 because I did not practice law here or in New Jersey.
7 I just maintained my duties as a trustee.

8 Q. Did you have a web site during that time
9 period?

10 A. I did, but I don't know the exact date. I
11 took the web site down.

12 Q. What was the title of that web site?

13 A. I believe it was Deborah C. Peck, Esq, P.A.

14 Q. And on that web site did you describe your
15 business as the Law Office of Deborah Peck?

16 A. I would have to look back, but I'm sure it
17 did.

18 Q. In the marketing materials that were given
19 to -- well, let's talk about, when did you first meet
20 Dennis Moens?

21 A. Probably around 2004 or 5.

22 Q. In what context did you meet Dennis Moens?

23 A. He was introduced to me by a Dutch
24 individual, and they were interested in life
25 settlements. And we had the Dutch fellow who was here

1 in the states was involved in Holland in life
2 settlements.

3 My family is involved in the health care
4 business, and many life settlements emerge out of the
5 senior market, which includes out of assisted living
6 facilities, as well as nursing care facilities. So I
7 spoke to them about life settlements in general.

8 By the way, our facilities often will have
9 brokers contacting us about giving lectures to the
10 seniors or their guardians or families about the
11 possibilities of using life settlement to continue the
12 quality of life for the insured.

13 Q. So that scenario that you just described, in
14 that your family runs assisted living facilities; is
15 that correct?

16 A. Yes.

17 Q. And other senior care facilities?

18 A. Amongst other things.

19 Q. And at your facilities brokers, who are
20 people that are looking to help people sell life
21 insurance policies, come and give seminars; is that
22 right?

23 A. They have in the past.

24 Q. And they teach the seniors how they can
25 obtain a life insurance policy and sell that policy;

1 is that correct?

2 A. No, that's not correct.

3 Q. So they don't teach that at your assisted
4 living facilities?

5 A. I never heard that.

6 Q. Do you attend the seminars?

7 A. I haven't. But I know -- in order to give a
8 seminar they provide us with the material that they're
9 going to be discussing. They primarily focus on
10 whether the insured has an asset life, in which case
11 if the senior's estate is being spun down, which it
12 often does as they grow elderly, and the family can no
13 longer support the mother or father, they will ask
14 about -- if they have life insurance, which is capable
15 of being sold into the marketplace for a marketable
16 price, and that money can continue to support the
17 insured.

18 Q. So with this background in life settlements
19 through your assisted living facilities, you came to
20 meet an individual, you said a Dutch individual. Who
21 is that Dutch individual?

22 A. The one that you named.

23 Q. Dennis Moens?

24 A. Correct.

25 Q. But you indicated that there was another

1 Dutch individual that introduced you to Dennis Moens;
2 correct?

3 A. That's correct.

4 Q. Who was that Dutch individual?

5 A. Bolosh Veto (phonetic). I don't know how to
6 pronounce his name, or spell his name.

7 Q. And when you first met with Dennis Moens,
8 what did he tell you he wanted to do in the life
9 settlement industry?

10 A. I don't believe he told me anything about
11 his intentions. They were from Holland. They were
12 involved in the life settlement business there.

13 I believe, I don't know if I knew at the
14 time, that they had a business there in Holland that
15 was quite active.

16 Q. Was Dennis Moens already in the life
17 settlement industry when you met him in 2004?

18 A. I don't know if I knew it at that time, but
19 I found out either right around then or thereafter,
20 yes.

21 Q. Was he involved in the life settlement
22 industry here in the United States?

23 A. No, sir.

24 Q. What was his role in the life settlement
25 industry?

1 A. He owned a company, and the company, as far
2 as I know, because I don't know that much about the
3 prior company, would sell life insurance policies. I
4 believe they were predominately, maybe all on U.S.
5 senior citizens.

6 Q. What was the name of that company?

7 A. That I would have to look up too, I'm
8 sorry.

9 Q. Was that company Watershed, LLC at that
10 time?

11 A. No, it was not.

12 Q. A prior company that he operated?

13 A. No, it was not.

14 Q. It was not a different company?

15 A. It was a different company. It wasn't
16 Watershed.

17 Q. Based on your conversations with Dennis
18 Moens, did you enter into the life settlement industry
19 yourself?

20 A. What do you mean by that, purchasing
21 policies?

22 Q. Yes.

23 A. No.

24 Q. Did you join forces with Dennis Moens in a
25 business endeavor?

1 A. No.

2 Q. So what was your relationship with Dennis
3 Moens after you met him in 2004?

4 A. At some point they asked me if I would like
5 to be the trustee, Watershed is the grantor, and I
6 agreed to that. Prior to their request they had
7 worked with a title company in Chicago. They weren't
8 happy with the title company, it was very arduous to
9 work with them, and they asked me if I would be
10 willing to be custodian for the policies, to service,
11 maintain, and track the lives of the insured. And I
12 agreed.

13 Q. What year was that?

14 A. Approximately 2005, 2006. Right in there.
15 Probably 2006.

16 Q. Can you describe for me exactly what your
17 role was going to be in the collection of money from
18 investor creditors?

19 A. Watershed was, as I mentioned, the grantor.
20 The grantor opened accounts, escrow accounts. Those
21 accounts were to hold moneys. Watershed's role was
22 primarily as a financing entity. The entity,
23 Watershed, would purchase the life insurance policies,
24 service and maintain them.

25 At that time, you've heard testimony about

1 the PCI, Provident Capital Indemnity, which provided
2 reinsurance component to each policy, which we
3 provided in turn for the structured investment, which
4 ultimately was deemed bogus. And by the way, I
5 testified in that trial as a witness for the federal
6 government.

7 Watershed would package these policies and
8 essentially place them on the shelf for the marketing
9 entity, which is Quality Investments in Holland.
10 Watershed, I believe was located in Dubai, maybe
11 originally it was in Holland, I don't know. And
12 Quality Investments would do the marketing and sales
13 of the policies to exclusively European investors.

14 Q. Now, why was it that they were going to
15 market the investments exclusively to European
16 investors?

17 A. They're Europeans, and their business, as
18 far as I know, was solely in Europe prior to that.

19 Q. At any time did you discuss the U.S.
20 regulatory landscape in 2005 and 2006 with these
21 individuals?

22 A. In terms of coming into the United States
23 for sales?

24 Q. Yes.

25 A. They never raised it. They had no

1 interest.

2 Q. So you indicated that Watershed itself would
3 buy policies from selling insureds; is that correct?

4 A. No, I did not say that. I said Watershed
5 was a financing entity, and what Watershed did was
6 approach providers, and as you know, a provider is a
7 licensed entity in any jurisdiction, and those
8 providers have the license to sell and purchase life
9 insurance policies. So they never went directly to an
10 insured.

11 Q. So where did Watershed source its
12 policies?

13 A. Through licensed providers in the
14 United States, and there are several. There are
15 many.

16 Q. Can you give a few examples?

17 A. Of names of companies?

18 Q. Yes.

19 A. Let's see, All Settled in New York. They're
20 licensed in New York. They were licensed. They're no
21 longer a provider. Parkside Equity. They're licensed
22 in New York. Sun Start Financial. They're
23 licensed -- well, many of them are licensed nationally
24 in all jurisdictions so that they can buy and sell
25 policies. But this is where their home office is

1 located. Sun Star Financial, I believe is in either
2 Washington State or Oregon. I think there were
3 several in other states, but I would have to look
4 back.

5 Q. You identified an entity called Parkside.
6 What was the name of that entity?

7 A. Parkside Equity, I believe.

8 Q. Do you have an ownership interest in
9 Parkside Equity?

10 A. I do not.

11 Q. Do you have an ownership interest in any
12 entity with the name Parkside as its name?

13 A. I do not.

14 Q. Or Parkside as part of its name?

15 A. In an entity? I do not.

16 Q. Do you know if Dennis Moens has an ownership
17 interest in Parkside?

18 A. As far as my information and understanding
19 is, no.

20 Q. So if I understand you correctly, your
21 understanding was that Dennis Moens, operating
22 Watershed, acquired policies from these various
23 entities you just listed?

24 A. That's correct.

25 Q. And then he turned around and sold those

1 policies to investors that were found through the
2 Quality Investments offering?

3 A. No, I did not say that. I said Watershed is
4 a financing entity. All they did was package the
5 policy with the reinsurance component. Naturally
6 Quality Investments had that particular job in getting
7 the reinsurance. And then Watershed at some point
8 took it over. That wasn't my business.

9 Watershed never solicited anyone in Holland
10 or elsewhere in Europe, to my knowledge. The
11 marketing entity, as I said, was Quality Investments.

12 Q. That was a little different than my
13 question. My question was -- let me break it down.
14 Did Watershed take title of the insurance policies?

15 A. Yes.

16 Q. And then did it sell those insurance
17 policies?

18 A. To a trust, correct.

19 Q. Okay. And were you the trustee of that
20 trust?

21 A. Correct.

22 Q. And was the money that was used to purchase
23 those policies from Watershed acquired through the
24 marketing efforts of Quality Investments?

25 A. No. Watershed started their business by

1 using their own money. I'm sorry if I'm
2 misunderstanding your question, because you're rolling
3 your eyes, but if you can clarify.

4 Q. Sure. You just indicated that Watershed
5 took titled policies and then it sold them to the
6 trust. And my question is, where did the trust get
7 the money to purchase the policies?

8 A. Early on Watershed had its own funds and
9 purchased policies. That's how they began their
10 business. They also had a prior business, and I
11 assume that some of that profit was used to purchase
12 policies.

13 So the first few policies that Watershed
14 purchased for this endeavor with Quality Investments
15 was, as far as I know, from their own money. It did
16 not come from any investors.

17 Q. And my question relates then to the second
18 sale where Watershed sells the policies to the trust
19 that you referenced. Do you remember that second
20 sale?

21 A. I certainly do. And as far as I know, it's
22 through the profit of Watershed.

23 Q. So you're telling me that the profits of
24 Watershed were used to purchase policies from
25 Watershed?

1 A. Say that again. The profits of Watershed
2 were used to --

3 Q. Well, I'm trying to get an understanding,
4 after Watershed has acquired title to the policy, and
5 then is engaging in a second transaction; is that
6 correct?

7 A. Correct.

8 Q. And that second transaction is to convey
9 title of the policy into the trust; right?

10 A. Correct.

11 Q. And Watershed is paid in exchange for
12 exchanging that policy; is that right?

13 A. Yes.

14 Q. And where does the money that is paid to
15 Watershed come from?

16 A. Whatever profit Watershed was earning was
17 used to purchase ongoing policies. There were times
18 when they did not purchase policies, and other times
19 when they had policies sitting on shelf.

20 Q. Did the trust use any money acquired from
21 investors to purchase policies?

22 A. Did the trust use any money -- the money
23 that came into the escrow accounts were Watershed's
24 funds, came into Watershed's escrow accounts to pay
25 back Watershed. Watershed then had the responsibility

1 of creating a buffer account, which they did, and
2 whatever else their business operation required. It
3 was their business to work out their financial
4 situation.

5 All I did was give them notice as to what
6 premiums were due. We optimized premiums on a regular
7 basis with the carriers, and they then instructed me
8 to pay those carriers.

9 Q. So are you telling me that the money that
10 was in the escrow accounts over which you were trustee
11 belonged to Watershed?

12 A. That's correct.

13 Q. Can you describe for me what Quality
14 Investments did?

15 A. I was never invited to their boardroom, but
16 sitting from afar and watching them, they are a
17 marketing entity. They -- I don't read Dutch, but I
18 know they were marketing in various financial
19 magazines. They received quite a bit of attention.
20 So they're on the radio, and they were interviewed, I
21 believe on TV, and they were the, again, the marketing
22 entity is really the only way I know to describe
23 them.

24 Q. Did they offer investments?

25 A. The sales of life insurance policies,

1 correct.

2 Q. So Quality Investments offered investors the
3 opportunity to buy life settlements; is that right?

4 MR. ELAM: Objection, Your Honor. We're
5 here for this alleged debtor to determine whether the
6 assets have been depleted, converted or secreted.

7 THE COURT: And the basis of the rules of
8 evidence is?

9 MR. ELAM: Relevance.

10 THE COURT: Overruled.

11 Could you move closer to the microphone,
12 please, or move it closer to you, whichever is more
13 comfortable. Go ahead, counsel.

14 BY MR. O'QUINN:

15 Q. Am I correct in saying that Quality
16 Investments offered investments in life settlements to
17 investors in Europe?

18 A. Yes.

19 Q. And they made representations about that
20 investment to investors?

21 A. What kind of representations?

22 Q. I'm asking you if you know whether or not
23 they made any representations to investors?

24 A. I don't know that.

25 Q. Do you know whether or not investors were

1 told that their money should be wired to you as
2 trustee?

3 A. Yes.

4 Q. Yes, you know that, or yes, that was told to
5 investors?

6 A. Yes, I -- no, I don't know what they told
7 the investors. I never saw their marketing material
8 or was privy to their conversations with the
9 investors, but I did receive money from the investors,
10 so I can assume that they were told.

11 Q. How much money did you receive from
12 investors?

13 A. I don't have the figures in front of me.

14 Q. Was it more than 10 million dollars?

15 A. I believe so.

16 Q. Was it more than 100 million dollars?

17 A. I don't know that. I would have to do the
18 calculations.

19 Q. You don't know how much money you received
20 from investors?

21 A. I don't.

22 Q. Do you know why investors were sending you
23 money?

24 A. Yes.

25 Q. Why were they sending you money?

1 A. Paying back Watershed for the packaging of
2 the life insurance policy, payment for the
3 reinsurance, payment for administrative fees, payment
4 to hold the buffer and to pay premiums.

5 Q. Did you become a trustee owing fiduciary
6 duties to the investors who were sending you money?

7 A. My fiduciary duties were to a closed fund.
8 And this is where I would like to speak, if I may.

9 THE COURT: Well, you should answer the
10 questions that are asked, and Mr. Elam can ask you
11 other questions later, but stick to the questions that
12 are asked.

13 THE WITNESS: My duties were to the closed
14 fund. There's a closed fund that was attached to each
15 trust, not individual investors. I had no contact
16 with the investors, or rare contact. On occasion they
17 would -- Quality Investments would ask if I would be
18 willing to speak with someone who was traveling in the
19 area. I was happy to provide them with an opportunity
20 to visit us at the office.

21 However, QI, Quality Investments, had a
22 management office in Holland, there were several
23 different ones over the years, but it was an
24 administrative office to handle the investors, to
25 basically provide customer service, to let them know,

1 I don't know, whatever else, whatever contact or
2 communications needed to be shared with them.

3 BY MR. O'QUINN:

4 Q. I'd like to ask you a yes or no question,
5 okay. Are you able to answer yes or no to a
6 question?

7 THE COURT: You don't need to go that far.
8 It's obvious that she's able to answer a yes or no
9 question. Ask the question.

10 BY MR. O'QUINN:

11 Q. Do you have a fiduciary relationship with
12 the investors who participated in the Quality
13 Investments offering?

14 A. I have a fiduciary relationship to the
15 closed fund, and that closed fund -- I didn't know if
16 there was one person in the closed fund or 50.

17 Q. Do you owe a fiduciary duty to the investors
18 who invested in the Quality Investments offering?

19 A. I believe I answered that.

20 Q. Is that a yes or a no?

21 A. To the closed fund who had -- the closed
22 fund has investors in it. My duty is first to the
23 closed fund.

24 Q. When an individual investor wired money to
25 your trust account, did that individual develop a

1 fiduciary relationship with you as trustee?

2 A. No, he did not, or she.

3 Q. Have you ever seen the prospectus that was
4 used to market the investments to the Quality
5 Investments investors?

6 A. I did.

7 Q. When did you first see this?

8 A. I believe when it was first written.

9 Q. Have you read it?

10 A. Not in awhile.

11 THE COURT: Does the witness have a copy of
12 all the exhibits?

13 BY MR. O'QUINN:

14 Q. Have you ever read it?

15 THE COURT: Let's hand her the book first,
16 so we know what it is. I assume it's Exhibit 12. And
17 let me just correct one thing for the record. Earlier
18 I said that 2 through 12 were admitted inclusive. 1
19 and 2 are the same. And so 2 is not currently
20 admitted. I'm withholding ruling on that at the
21 moment.

22 (Exhibits No. 3 through 12 admitted.)

23 THE COURT: You may ask questions about it.
24 But if I exclude it, then I will treat the evidence as
25 though the content of the document was not admitted.

1 BY MR. O'QUINN:

2 Q. Have you ever read that document before?

3 THE COURT: And by that document he means
4 Exhibit 12, I assume.

5 MR. O'QUINN: Yes, Your Honor.

6 THE WITNESS: Exhibit 12? I'm looking at
7 No. 3.

8 MR. GOLD: Sorry, it's Exhibit 3, your
9 Honor.

10 THE COURT: Oh, it's 3, sorry.

11 THE WITNESS: Not recently, but yes, I
12 have.

13 BY MR. O'QUINN:

14 Q. Are you the trustee that's identified in
15 this document?

16 A. Where would you like me to turn?

17 Q. Looking at page 5.

18 THE COURT: Could you point where on the
19 page?

20 MR. O'QUINN: Yes, Your Honor. Under
21 management and custody on behalf of CLSF Trust III IV
22 in America.

23 BY MR. O'QUINN:

24 Q. Do you see that?

25 A. Yes, I see that.

1 Q. Are you the trustee that's identified in
2 that prospectus?

3 A. I believe so.

4 Q. Were you aware that investors were told that
5 you would be the trustee in that prospectus?

6 A. I don't remember that. I'm sure -- I don't
7 know that. I did not create this document.

8 Q. But you said that you read this document at
9 the time it was created; is that right?

10 A. Whenever they provided it to me. I wasn't
11 involved in the structure of the investment. What
12 they required me, or they asked of me to provide them
13 with is on page 16, and they built this prospectus
14 without my input.

15 Q. So if I understand your testimony today,
16 during the entire time you were acting as trustee
17 for the Quality Investments offering, you were under
18 the impression that you did not owe a fiduciary duty
19 to the individual investors in Quality Investments?

20 A. Again, I had a duty -- my understanding --
21 we're talking about my understanding?

22 Q. Yes.

23 A. The closed fund was the beneficiary. It's a
24 Dutch closed fund governed by Dutch rules, and the
25 fund was the beneficiary. I had no contact with any

1 investors. I did not even know who was a member of
2 the closed fund. That was all handled by Quality
3 Investments in Holland by their administrative
4 company.

5 THE COURT: Just so I understand, what is
6 the entity that you -- when you say the closed fund,
7 what do you mean? What is the entity?

8 THE WITNESS: Much like the Belgium MQIC,
9 which I believe is a partnership, they have Dutch
10 rules for --

11 THE COURT: I don't mean that. Here is
12 there a name -- what is the name of the closed fund?

13 THE WITNESS: What's the name -- they're all
14 different.

15 THE COURT: The one we're talking about
16 potentially today, I assume.

17 THE WITNESS: I don't even -- I believe
18 it's -- I'd have to look.

19 THE COURT: On page 5 above your name it
20 says CLSF Trust III/IV. Is that the name of the
21 closed fund that you're talking about?

22 THE WITNESS: I'm on a different page, but
23 I think you're correct, Your Honor. I have to go
24 back.

25 THE COURT: I just want to understand, what

1 is meant by the closed fund, is it the debtor, is it
2 not the debtor?

3 THE WITNESS: The closed, that's -- I don't
4 think that's the full name. You were looking at CLSF
5 Trust III-IV, is that what you're referring to?

6 THE COURT: Yes. III/IV, correct.

7 THE WITNESS: It has a longer name, like
8 stichting, blah, blah, blah, blah. And that would be
9 the closed fund that was organized under the Dutch
10 rules and laws. And that closed fund had members.
11 They had a contract and it governed their involvement
12 in that fund. They were restricted to transferring
13 their participations to other members within the fund
14 or to family members. So I might add, they could
15 transfer to MQIC.

16 THE COURT: Well, turn back -- I promise I
17 will not hijack your entire questioning. I just want
18 to understand how this fits.

19 If you turn back a few pages there's one
20 page, there's repetitive numbering, it has a 5 at the
21 bottom and it has 1. Summary, at the top. I don't
22 know if you found that. And then it says, the
23 headings on the page are Summary and General
24 Information.

25 THE WITNESS: I'm there.

1 THE COURT: Okay. Under General
2 Information, in the third paragraph, is the closed
3 fund you're talking about, which is what this whole
4 prospectus is about, I believe --

5 THE WITNESS: Yes.

6 THE COURT: CLSF Trust III/IV Foundation,
7 Closed Life Settlement Fund III/IV UA, dated July 9,
8 2007.

9 THE WITNESS: I believe that's the trust
10 name, because it's UA dated July 9th. However, the
11 fund was created in Holland, and that would be, and
12 I'd have to confirm it, but I believe it would be CLSF
13 Trust III-IV, without the slash maybe, Foundation, but
14 then it would be in Dutch, stichting, which means
15 closed fund, I believe.

16 THE COURT: All right. S-t-i-c-h-t-i-n-g.

17 Why don't you go ahead with your
18 questioning. I'd love to know, however, how -- the
19 fund, I assume, only has a single asset in it, maybe
20 I'm wrong, and how it relates to the debtor legally.

21 MR. O'QUINN: Yes, Your Honor.

22 BY MR. O'QUINN:

23 Q. So to make sure I understand your
24 understanding during the operation of this business of
25 your own fiduciary obligations, I understand that you

1 have now said that your sole beneficiary was a
2 stichting in Europe. Is that correct?

3 A. I believe that's what the contract states.

4 Q. And who was the administrator or director of
5 that stichting?

6 A. As I said, it changed over the years. I
7 believe there were one or two, maybe -- no, not one.
8 There were at least two or three different companies,
9 but it was a management company that Quality
10 Investments hired. I think at the end it was AD
11 Consultancy. Prior to that I think Quality
12 Investments handled that work initially, and then they
13 changed.

14 Q. And what individual gave you direction in
15 the management of the trust accounts that were under
16 your control?

17 A. Within the stichting?

18 Q. Who did you deal with when you needed
19 authorization to take actions as a trustee?

20 A. No one in the stichting gave me
21 instructions. The trustee provides that I have the
22 authority to maintain service and care for the assets.
23 The stichting solely the beneficiaries.

24 Q. So did anyone ever provide you with
25 authority to remove funds from those trust accounts

1 for purposes other than the purchase of policies and
2 the maintenance of policies?

3 A. Again, the escrow accounts were in the name
4 of the grantor, Watershed. Watershed gave me
5 instructions as to everything, including the payment
6 of premiums, payment to providers for purchase of
7 policies, payment to accountants that needed to be
8 paid to care for the servicing of the trust.

9 Q. How about the payment for personal items,
10 like boats, did you ever get instructions to make
11 payments for boats?

12 A. Watershed had their own account, and they,
13 as far as I know, they conducted their business
14 according to their organizational rules and good
15 business sense. So whatever they would like to do
16 with their money is their business, it's not my
17 business.

18 Q. Did that include their ability to tell you
19 to make wires to locations or recipients that they
20 identified?

21 A. Many. Many of them were brokers who were
22 paid as part of commissions. Quality Investments
23 apparently had a long line of brokers. Those were
24 paid as part of the fees for the business.

25 Q. How about payments that didn't relate to the

1 life settlement industry, for instance payments for
2 boats, did anyone ever ask you to make payments out
3 of the trust accounts or escrow accounts for personal
4 items like boats?

5 A. Watershed did a number of times pay for
6 their own personal, I don't know if it was personal or
7 business, I don't know what they held the entity in,
8 if it was Watershed's name, but Watershed did have --
9 they had profit there. They were entitled to use it
10 as they decided.

11 Q. And who would call you or direct you to make
12 wires to fund those payments?

13 A. Dennis Moens.

14 Q. Did you speak with the beneficiaries who had
15 invested in Quality Investments about those transfers
16 prior to making those transfers?

17 MR. ELAM: Objection, Your Honor. This is
18 immaterial.

19 THE COURT: Is it? Overruled. But I have
20 to tell you that I think that Ms. Peck is answering
21 questions based on a whole bunch of accounts, and
22 you're asking her questions focused on the investor
23 related accounts, and I don't think the answers are
24 lining up with your questions.

25 MR. O'QUINN: Well, I think that's right,

1 Your Honor. I'm doing my best to try to narrow in on
2 it.

3 BY MR. O'QUINN:

4 Q. Are we talking about trusts and escrow
5 accounts that relate to money you received from
6 European investors?

7 A. Yes. They're all escrow accounts.
8 Watershed has an escrow account, and Watershed would
9 have several -- they set up several sub accounts. And
10 those sub accounts, I would have to go back and look,
11 but Watershed had control over those accounts and
12 would indicate to me what transfers they would want to
13 make and for what purposes. That included personal
14 items based on, I assume, the profit they earned. It
15 also included obviously, fees that were required for
16 the maintenance and servicing of the policies.

17 Q. Let me narrow the questioning in. Let's
18 talk about CLSF III/IV, Inc. Okay. Was there an
19 escrow account that was used to pay premiums on the
20 CLS -- the policy held in CLSF III/IV, Inc.?

21 A. There was never an escrow account set up
22 with each individual investor. That was very clear to
23 me, that it was Watershed's escrow accounts, there was
24 never an effort made to create individual escrow
25 accounts either with the particular fund or with

1 particular investors. Does that answer your question?

2 Q. It does. So there are no escrow accounts
3 that are safeguarding funds for the benefit of
4 investors that you're aware of?

5 A. Watershed did create several escrow
6 accounts, sub accounts. One was named a buffer
7 account for premiums. Another one, and this is
8 something that evolved, they had an account they would
9 place money in for reinsurance. They had their own
10 account that they would use for whatever purposes they
11 chose.

12 Q. Was there an account ever created to
13 safeguard the money sent to you for payment of
14 premiums on the policy held in CLSF III/IV, Inc.?

15 A. When money was sent, that money included a
16 number of items, including payment back to Watershed
17 for the work it had done, which included the purchase
18 of the policy, the purchase of the reinsurance that
19 they coordinated with Quality Investments. So they
20 would take that out. They would need to take that out
21 as a profit, and then they would escrow moneys for the
22 use of premium funds.

23 Q. And when you say they would take that out,
24 you're talking about taking money out of an account
25 that you're the trustee of; is that correct?

1 A. Misuse of words. They, meaning Dennis Moens
2 and whomever is Watershed, and however -- whatever
3 formula they had to determine, okay, this is our
4 profit, okay, this goes to an escrow for premiums,
5 okay, this goes for reinsurance, they would advise me
6 accordingly.

7 Q. And based on the advice that you received
8 from Dennis Moens and others you would then wire money
9 to Watershed out of that trust account?

10 A. Are you talking about for profit payment, or
11 what are you talking about?

12 Q. For any purpose whatsoever.

13 A. Absolutely. Watershed received commissions,
14 or profit, however they determined -- just as Quality
15 received payment and the brokers received payment.

16 Q. Now, you talked about profits. Are you
17 talking about profits that were generated by the
18 maturity of an insurance policy, or are you talking
19 about profits generated through some other
20 transaction?

21 A. Whenever a policy was purchased by
22 Watershed, it was packaged and Quality Investments
23 would sell it. I don't know how they determined the
24 pricing. But there would be a profit margin. I don't
25 know what the formula was used to determine who got

1 what. I was instructed to pay accordingly, and I did
2 so.

3 Q. And who gave you that instruction?

4 A. Dennis Moens.

5 Q. Who is Frank Laan?

6 A. I believe he's the principal of Quality
7 Investments.

8 Q. Have you ever met with Frank Laan?

9 A. I have.

10 Q. When?

11 A. I believe I met him first in 2005.

12 Q. Was he involved in the initial organization
13 of the Quality Investments offering?

14 A. Since I wasn't involved in the initial
15 organization of the Quality Investments offering, I
16 don't know who was involved. I know they had
17 attorneys, and I assume, which again, is an
18 assumption, which I shouldn't make, that they all were
19 involved, but I don't know from personal knowledge.

20 Q. Now, throughout the operation of Quality
21 Investments you knew that you received wires from
22 investors in Europe; is that correct?

23 A. Yes.

24 Q. And those wires were coming into your
25 attorney trust account; is that right?

1 A. Correct.

2 Q. And was that attorney trust account at
3 Commerce Bank initially?

4 A. It was until it was taken over by TD.

5 Q. Were all of the accounts that relate to
6 investor payments from Europe, were they all at
7 Commerce Bank and now TD Bank?

8 A. And now Wells Fargo. As far as I know. I
9 don't know what you're suggesting, but that's what I
10 know.

11 Q. You said, and now Wells Fargo. Have new
12 accounts been opened at Wells Fargo?

13 A. They were closed at, well, TD Bank, and I
14 opened my accounts at Wells Fargo.

15 Q. Why were they closed at TD Bank?

16 A. TD Bank asked me to close those accounts.

17 Q. Do you know why?

18 A. I do not.

19 Q. Do you know whether or not they filed a
20 suspicious activity report in connection with that
21 closure?

22 A. I do not.

23 Q. Did they discuss that with you?

24 A. They did not.

25 Q. Have you ever been sued in connection with

1 your role as a trustee?

2 A. Yes.

3 Q. How many times?

4 A. Three times.

5 Q. And in what states were you sued?

6 A. New Jersey.

7 Q. Is that all three cases?

8 A. I believe so.

9 Q. What was the first case that you were sued
10 in?

11 A. I don't remember which one was which, which
12 was first, but Sprinturf, I believe was one of them.

13 Q. Why don't you tell me all three of the names
14 of the names of the plaintiffs in the suits, if you
15 would?

16 A. Sprinturf was one, Arie Schoon was another,
17 and Fred Koman (phonetic) was the third.

18 Q. In each of those lawsuits were you alleged to
19 have breached your fiduciary duty?

20 A. It was breach of contract, escrow.

21 Q. In any of those cases were you alleged to
22 have breached your fiduciary duty?

23 A. I don't recall all the allegations, but it
24 was ultimately breach of contract.

25 Q. And what was the nature of the contract that

1 you'd breached?

2 A. They were all involved in a transaction
3 which took place in, obviously the parties were in the
4 United States, although Fred Koman and Arie Schoon
5 were in Holland. Arie Schoon, by the way, is a cousin
6 or cousin-in-law of Dennis Moens. And the transaction
7 involved acquiring a financial guarantee from a
8 company in Canada, whom I have a summary -- I have a
9 judgment against at this point. They acquired money
10 from all the investors to acquire this financial
11 guarantee. That financial guarantee would be acquired
12 from ABN Ambro, and then given to a bank, in this case
13 it was CIBC, I believe, in Canada, and that guarantee
14 would fund a loan for a particular project.

15 Q. Were those projects related to the life
16 settlement industry?

17 A. I don't know what all the projects were, so
18 I can't say. I don't think so though.

19 Q. Were those plaintiffs ultimately paid the
20 money they were seeking in those lawsuits?

21 A. All but one.

22 Q. Let's look at Mr. Schoon. Was he ultimately
23 paid?

24 A. Yes.

25 Q. And then the next one you said, what was the

1 other name that came after Schoon?

2 A. Sprinturf.

3 Q. Was he paid?

4 A. Yes.

5 Q. Was it paid -- who paid those settlements?

6 A. I did.

7 Q. With what funds?

8 A. Funds that I earned through my work as an
9 escrow attorney for Watershed.

10 Q. So ultimately the money that you used to
11 settle those payments ultimately came from
12 Watershed?

13 A. I would have to go back and check on the
14 Sprinturf, I'm not a hundred percent sure on that.

15 Q. How about the Schoon settlement, was that
16 paid out of funds from Watershed?

17 A. Yes.

18 Q. And were those funds generated through the
19 offer and sale of investments to investors through
20 Quality Investments?

21 A. It was their profit.

22 May I say something to the Court?

23 THE COURT: Let's wait until -- if you want
24 to consult with your counsel --

25 THE WITNESS: I would like to, because I

1 believe --

2 THE COURT: Not right now. Later.

3 THE WITNESS: Can I take a bathroom break?

4 THE COURT: Not so you can talk to your
5 lawyer, is that what you're asking?

6 THE WITNESS: No. To go to the bathroom.

7 THE COURT: Yes, we may take a break to go
8 to the bathroom. You're instructed not to discuss
9 your testimony with anyone during the break.

10 THE WITNESS: I won't.

11 THE COURT: We'll be back in five minutes.

12 (A recess was taken.)

13 THE COURT: Welcome back, everyone. Let's
14 have a seat in the courtroom. Ms. Feinman, you're
15 still on the telephone.

16 MS. FEINMAN: Yes, sir.

17 THE COURT: And how is the sound so far?

18 MS. FEINMAN: It's still fuzzy, Your Honor,
19 but I'm bearing with it.

20 THE COURT: You're coming through loud and
21 clear here and there's no echo like there was
22 yesterday.

23 MS. FEINMAN: I really wanted that God
24 sound, but I understand.

25 THE COURT: Yesterday about half of the

1 people that appeared in my, only about half, which is
2 even more strange, that appeared in my motion
3 calendar, 50 or 60 matters, had this echo that sounded
4 like it had been added electronically, so if you're
5 doing that in your offices, don't do that.

6 All right. We're back. You remain under
7 oath. You understand?

8 THE WITNESS: Yes, sir.

9 THE COURT: Go ahead.

10 BY MR. O'QUINN:

11 Q. Ms. Peck, did you ever have any
12 communications, whether written or oral, with
13 investors prior to their making an investment in
14 Quality Investments?

15 A. Not typically. There may have been on
16 occasion where they asked me to speak to an investor
17 so that the investor knew that a trustee actually
18 existed.

19 Q. Is that a yes? You did speak with investors
20 prior to --

21 A. I have to qualify it, because it was very
22 rare. It wasn't a routine.

23 Q. Earlier you testified that there came a time
24 where you changed the nature of your office here in
25 Florida. Is it your testimony today that you were not

1 holding yourself out as an attorney while you worked
2 here in Palm Beach County?

3 A. I don't think I did. I didn't practice law
4 here, and I made clear that I was an attorney with an
5 asterisk after my name that would show that I'm
6 licensed in New Jersey.

7 Q. Did you, at your office here, hold yourself
8 out as working at a law firm?

9 A. To who?

10 Q. To the public.

11 A. I don't think so.

12 Q. How about to investors?

13 A. As I said early on, I did represent myself
14 as an attorney with an office here in Florida, because
15 New Jersey continues to allow home office to be in an
16 outside jurisdiction.

17 Q. As of today, do you owe a fiduciary duty to
18 Marc Vandoorne, one of the petitioning creditors in
19 this matter?

20 A. I don't know who Mr. Vandoorne is, however,
21 in receiving this information as of 4:09 yesterday,
22 and taking a look at the paperwork all evening, my
23 administrative office in Holland provided to me
24 information on his nonpayment of premiums over the
25 last several quarters as an investor.

1 Q. Do you owe a fiduciary duty today to Marc
2 Vandoorne, one of the petitioning creditors in this
3 matter, today?

4 A. I believe I do.

5 Q. What is the basis of that fiduciary duty?

6 A. To all of the investors ever since this
7 crisis I have pooled the policies, and have pooled the
8 investors, so that I'm working on behalf of all of the
9 investors, not a splintered group of investors.

10 Q. When you say that you pooled or co-mingled
11 all of the policies, and you pooled or co-mingled all
12 of the investors, did you speak with Marc Vandoorne
13 before doing that?

14 A. Under the Florida statutes which permit me
15 to have discretionary powers to do what I need to do
16 in an emergency, I did what I needed to do to protect
17 the assets, which was my first fiduciary duty,
18 preserve the assets.

19 Q. Just a moment ago you said you were not a
20 Florida lawyer, but just now you cited Florida law.
21 On whose opinion are you relying when you make that
22 statement about your legal rights?

23 A. I've never said that I wasn't a trustee.
24 I've always been a trustee. And that opinion, which
25 is Mike Glazer's opinion, is based on Florida

1 statutory law which applies to a trustee.

2 Q. Is Mr. Glazer licensed to practice law
3 in the State of Florida?

4 A. Not to my knowledge.

5 Q. Today do you owe a fiduciary duty to
6 Mrs. M.A.H. Ortman?

7 A. I don't know who that is. I believe it's
8 Mr. Ortman's wife. However, to my knowledge, I have
9 never known Mrs. Ortman to own a participation.

10 Q. Today do you believe that you have a
11 fiduciary obligation to her individually?

12 A. I don't know if she's an investor or not.
13 I've just received this last night. I would have to
14 go through -- I'd have to contact Holland and have
15 them go through the software to determine if she's an
16 investor. I don't know.

17 Q. Do you have a fiduciary obligation
18 individually to each of the investors, including the
19 petitioning creditors in this case?

20 A. Since this emergency action, I believe I
21 do.

22 Q. So your understanding, when you say since
23 this emergency action, what action are you talking
24 about?

25 A. I shouldn't say emergency action. Ever

1 since the portfolio became a distressed portfolio, I
2 was obligated to do what I needed to do to preserve
3 the assets. In order to preserve the assets I needed
4 to collectivize the money that was coming in, and use
5 that money on an emergency basis to pay premiums.

6 Q. So prior to your collectivization of the
7 premium moneys, did you have a fiduciary duty to the
8 individual investors in Quality Investments, including
9 the petitioning creditors?

10 A. I believe my fiduciary duty was to the
11 closed fund, which continues to remain to be the
12 beneficiary of each trustee.

13 However, in collectivizing the pool, which
14 was essential, I certainly am involved more intimately
15 with investors than I've ever been.

16 MR. CHARBONNEAU: Your Honor --

17 THE COURT: One lawyer per witness. If you
18 want to consult with your co-counsel, go right
19 ahead.

20 MR. CHARBONNEAU: May I?

21 THE COURT: Yes. Mr. Elam is starting to
22 look very lonely over there.

23 THE WITNESS: I feel like I'm being ganged
24 up on.

25 MR. O'QUINN: Your Honor, we feel that

1 we are entitled to a yes or no answer to a yes or no
2 question. We would ask that the Court instruct the
3 witness to answer a yes or no if the question calls
4 for a yes or no. We have no objection to her
5 explaining that answer after she answers yes or no.

6 THE COURT: If the question is one that can
7 be answered with a yes or no, you need to say so.
8 Understood?

9 THE WITNESS: Understood, Your Honor. I'll
10 try to do that.

11 THE COURT: And if you raise the issue in
12 connection with a specific question, then we can
13 address it then.

14 MR. O'QUINN: Thank you, Your Honor.
15 BY MR. O'QUINN:

16 Q. I'd like you to turn your attention to tab
17 No. 8. May I approach, Your Honor?

18 THE COURT: Yes. Oh, you have.

19 BY MR. O'QUINN:

20 Q. Do you recognize that document?

21 A. I believe it's the trust deed -- you know
22 what, I apologize, it seems very blurry to my eyes,
23 but I believe it's the trust itself.

24 Q. Do you recognize that document?

25 A. I'm trying to.

1 Q. Is that a yes or a no?

2 A. I haven't read it through, sir.

3 It's the trust.

4 Q. Is it a true and complete copy of the
5 trust?

6 A. I did not -- I don't know. You provided it
7 to me, so I'm going to make an assumption that you
8 copied it from somewhere. I don't know if this is
9 complete.

10 Q. Could you turn to the third to last page
11 of that document?

12 A. Okay.

13 Q. Do you see a signature at the top?

14 A. Yes.

15 Q. Whose signature is that?

16 A. That's me.

17 Q. Can you turn to the second -- the page just
18 following that, Exhibit 1, do you see that?

19 A. Yes.

20 Q. What is that?

21 A. Exhibit 1?

22 Q. Yes.

23 A. It's a schedule life insurance.

24 Q. Is it identifying the policy that's owned by
25 CLSF III/IV, Inc., the debtor in this case?

1 A. It doesn't have a policy number, although it
2 says Lincoln National Life Insurance.

3 Q. What is the face value of that policy?

4 A. It says here 10 million.

5 MR. O'QUINN: Your Honor, we've identified
6 it. She may have a redacted copy. We'd like to make
7 sure that she's got a full and complete copy so that
8 she can see this document. This is redacted because
9 of the privacy issues.

10 THE COURT: I understand. I have an
11 unredacted one; correct?

12 MR. GOLD: I believe you do not, Your Honor,
13 but I'm handing one up to you as we speak, the
14 unredacted copy.

15 MR. O'QUINN: We will mark that 13, Your
16 Honor.

17 THE COURT: Just a moment. Let me just
18 see -- I may already have it. So this is -- hold on,
19 I'm a little confused. Oh, I see, correct, the one
20 just handed to me is, the only difference is that
21 components have been whited out, for example, in
22 Exhibit 1, I can see now.

23 MR. GOLD: Yes.

24 THE COURT: Does Mr. Elam a copy of this?

25 MR. GOLD: I'll give it to him, Your Honor.

1 And just by way of very brief explanation,
2 as I'm sure Your Honor could fill in the gaps of why
3 we did what we did there --

4 THE COURT: Oh, I understand.

5 MR. GOLD: I redacted the copy to protect
6 everyone.

7 THE COURT: It has an individual's name, who
8 is not likely to be involved in this action in any
9 way, and the actual policy number, and otherwise, the
10 only difference is between what's been admitted 8 and
11 what's now marked 13; correct?

12 MR. GOLD: Correct, Your Honor.

13 THE COURT: Mr. Elam, I assume you don't
14 have any objection.

15 MR. ELAM: No.

16 THE COURT: Thank you.

17 BY MR. O'QUINN:

18 Q. Now that you've had an opportunity to see
19 that unredacted versus, do you recognize that as the
20 policy owned by the debtor in this case, the alleged
21 debtor?

22 A. I don't see Mr. Vandoorne's name on here, so
23 you're saying alleged debtor, I assume you're
24 referring to all of them?

25 Q. I'm not talking about the petitioning

1 creditors, I'm talking about CLSF III/IV, Inc., the
2 alleged debtor. Is this policy the policy that is
3 owned by the alleged debtor?

4 A. Yes, it is.

5 Q. Turning to the next page, what is that?

6 A. Exhibit 2.

7 Q. Can you describe it for me?

8 A. I can read it to you. The following are the
9 income and corpus beneficiaries of this trust.

10 Q. And listed there do you see the names of the
11 petitioning creditors in this case?

12 A. I see Mrs. -- I see Mr. Ortman and
13 Mrs. Ortman, and I don't see the other one. Maybe
14 I'm missing it. Mr. Vandoorne, isn't he a creditor?

15 Q. I'm focusing my questions on the Ortman.
16 Do you see the Ortman there?

17 A. Excuse me, you said the creditors, I
18 thought --

19 Q. Are they two of the petitioning creditors?

20 THE COURT: You need to speak one at a
21 time.

22 MR. O'QUINN: Yes, Your Honor.

23 THE WITNESS: I don't have the petition in
24 front of me, but I believe it had three names, or four
25 names, the Ortman, Mr. and Mrs., Mr. Vandoorne, I

1 believe, and MQIC.

2 BY MR. O'QUINN:

3 Q. Do you know is it possible that Mr.
4 Vandoorne invested at a later time and was added on as
5 a beneficiary of this trust?

6 A. I don't know that, but I will take your
7 answer. I don't know that.

8 Q. Did that happen from time to time?

9 A. Since I never handled the investors, I don't
10 know.

11 Q. I'm sorry. Turning back again, that is your
12 signature on this document, is it not?

13 A. Yes.

14 Q. So in connection with this particular trust
15 document, you signed a document that had at least two
16 of the petitioning creditors listed as beneficiaries
17 of the trust; right?

18 A. No. That's not how it works.

19 Q. Help me to understand how it works.

20 A. The trust would be created, and there may or
21 may not be a closed fund attached. That is something
22 that Quality Investments handled in Holland, and the
23 management company would put together the exhibits,
24 and if they changed from time to time, I would never
25 be advised because they handled the investors.

1 Q. So is it fair to say that you don't know who
2 the investors are in each of the companies set up for
3 the Quality Investments offering?

4 A. At this point, since it became a distressed
5 portfolio, we acquired the software in Holland, and we
6 went through every contract and found out who were the
7 investors in each fund. So I do know now.

8 Q. During the operation of this business did
9 you even know the identity of the investors who were
10 tied to the various offerings?

11 A. Not necessarily. If an investor contacted
12 me and said, I'm on a cruise coming to Florida, I'm an
13 investor in III IV -- CLSF III IV, I would confirm
14 that with the office in Holland, and I would welcome
15 them to visit me. But otherwise, no.

16 Q. I'd like you to turn to tab 6 of the binder.
17 What is that? Do you recognize that?

18 A. That's a letter I wrote on July 7th, 2012.

19 Q. Who is it addressed to?

20 A. The investors.

21 Q. At the top it identifies you as trustee; is
22 that right?

23 A. Correct.

24 Q. I would like you to focus on the second to
25 last sentence of the first paragraph. Can you read

1 that out loud?

2 A. "However, without your premium moneys being
3 wired" -- is that what you're referring to?

4 Q. You can start there, that'll work.

5 A. "However, without your premium moneys being
6 wired to the trustee account I can not service the
7 policies and keep them in force. The only action left
8 to me is to begin to sell policies in order to
9 preserve other policies. This is not a solution, but
10 a method for immediate preservation of the assets".

11 Q. So help me to understand it. This is a
12 letter between you and the investors and the Quality
13 Investment fund; is that correct?

14 A. Correct.

15 Q. And including the petitioning creditors?

16 A. Correct.

17 Q. And in this what you are doing is asking
18 individuals who you've told us prior to the failure of
19 this investment vehicle that you didn't even know were
20 investors in the funds. Is that right?

21 A. At this point I did. I explained to you
22 that we were able to acquire the software.

23 Q. Right. So you're now writing to these newly
24 discovered investors and you're asking them to send
25 you additional funds; is that right?

1 A. Correct.

2 Q. And you're telling them that if they don't
3 send you additional funds that they could lose their
4 entire investment?

5 A. Correct.

6 Q. And when they send that money in, you're
7 taking that money and pooling it together; is that
8 right?

9 A. Correct.

10 Q. And you're using it as you think is
11 appropriate to try to pay premiums on various
12 policies; is that right?

13 A. On an emergency basis, case by case,
14 correct.

15 Q. So you are making the determination how to
16 spend the limited assets, because there's not enough
17 assets to pay all the premiums for all of the policies
18 for the life expectancies of those insureds; is that
19 right?

20 A. That's not really my decision. As I said,
21 it was a case by case emergency basis. If a policy
22 was being lapsed, that's the policy that would be
23 paid.

24 Q. And you were making that decision?

25 A. Based on the lapsed policies, yes.

1 Q. Turning to the tab 7, if you would. What is
2 that? Do you recognize it?

3 A. It's a letter from January 25th, 2011. Dear
4 Beneficiaries.

5 Q. Whose signature is at the bottom?

6 A. It's mine.

7 Q. Is this the letter that you sent to the
8 investors in the Quality Investment fund offering?

9 A. Yes, I did.

10 Q. The header, the letterhead, do you recognize
11 that?

12 A. Yes.

13 Q. What does it say there in the center?

14 A. Peck Law Firm.

15 Q. What is the address of the Peck Law Firm?

16 A. 631 U.S. Highway 1, Suite 303.

17 Q. At the time that you wrote this letter were
18 you authorized to practice law in the State of
19 Florida?

20 A. No. But you'll note, I have the little
21 asterisk there, licensed to practice in New Jersey.

22 Q. Do you know whether or not New Jersey has a
23 requirement that active attorneys maintain an office
24 in New Jersey?

25 A. I do.

1 Q. Do they have that rule?

2 A. They do not.

3 Q. This letter is addressed to Dear
4 Beneficiaries. To whom were you sending this
5 letter?

6 A. To beneficiaries.

7 Q. Beneficiaries of what?

8 A. The life insurance trust that held the
9 policies, the funds, the members of closed life
10 settlement funds.

11 Q. And you were the trustee of those trusts?

12 A. Correct.

13 Q. So these are your beneficiaries that you're
14 writing to?

15 A. Yes.

16 Q. And did you send these directly to the
17 investors?

18 A. I did not.

19 Q. How did you distribute them?

20 A. I don't speak Dutch, I don't speak German, I
21 don't speak French, I don't speak Spanish, which are
22 the primary languages of the investors. As I
23 mentioned before, we have a management company that I
24 had to put together, because I was living on an island
25 when this occurred, with no contact with Europe nor

1 any investors. They were able to acquire the Dutch
2 software, which was held by a technology company, and
3 in going through the software piece by piece were able
4 to put together the puzzle of each fund and who were
5 the members of those funds.

6 Q. And then once you completed that, did you
7 send this out directly to the investors in the
8 funds?

9 A. Sorry, I didn't finish. The company, the
10 management company would then, by either certified
11 mail or however they did it there, registered mail, or
12 mail, I'm not exactly sure, sent that out. I don't
13 believe they used e-mail. So I didn't do it
14 personally, but the management company that I have in
15 Holland did.

16 Q. And you said, I have in Holland. This is an
17 agency that's working at your direction; is that
18 right?

19 A. I don't call it an agency. It's a
20 management company. They manage the investors.

21 Q. But it's working as your agent?

22 A. It is my agent.

23 Q. And so you're causing them to distribute
24 this directly to the investors?

25 A. I'm causing them to do that, yes.

1 Q. Under the title, Dear Beneficiaries?

2 A. Under the title of Dear Beneficiaries.

3 Q. Can you take a look at tab No. 9. Take a
4 moment to look through it, if you would. When you're
5 done, feel free to look up and let me know.

6 A. I have to tell you, the print is very small,
7 and I didn't bring glasses, so I'll do the best that I
8 can. I didn't think I would be sitting here reading
9 documents in tiny print. Okay.

10 Q. What is that?

11 A. Contract for sale and purchase of life
12 insurance, Watershed to CLSF Trust.

13 Q. Do you recognize it?

14 A. I do.

15 Q. Is it a document you've seen before?

16 A. They all look alike, so I'm sure I've seen
17 this one. I can't specify that this one exactly I've
18 seen recently.

19 Q. Looking at the bottom right hand corner, do
20 you see a signature?

21 A. My signature.

22 Q. That is your signature?

23 A. My signature.

24 Q. Turning to the second page of the document,
25 paragraph 2, title purchase price, are you able to see

1 that?

2 A. I do.

3 Q. Do you see where it says 6 million
4 dollars?

5 A. Yes.

6 Q. Is that the purchase price that investors
7 are being told is being paid in connection with the
8 acquisition of the policy at issue in this case?

9 A. I don't know what the investors are being
10 told. All I know is what is -- what the contract
11 price is between Watershed and the trust. I didn't
12 deal with any contracts or marketing policies, nor do
13 I know any pricing on the assets.

14 Q. When you're saying you didn't deal with
15 contracts, you signed this contract; right?

16 A. Between Watershed and the trust. But I'm
17 telling you, I don't have any contact with the
18 investors and what the marketing price was for their
19 participation for investment.

20 Q. Is it your understanding that that 6 million
21 dollars is, in fact, the purchase price for the
22 insurance policy?

23 A. I really don't know. I can't attest to
24 that.

25 Q. And I asked what your understanding is. Is

1 it your understanding that that was the purchase price
2 for the policy paid to the seller?

3 A. My understanding is that they had the right
4 to change the purchase price. I don't know if they
5 sold it for more or for less.

6 Q. This is a contract for sale and purchase,
7 and my question to you is, is it your understanding
8 that 6 million dollars describes the purchase price
9 being paid by the buyer to the seller?

10 MR. ELAM: Objection, Your Honor. Asked and
11 answered.

12 THE COURT: Well, it's in the documents.
13 Why does it matter what she thinks? Counsel, why does
14 it matter what the witness thinks, it's in the
15 document, which is admitted.

16 MR. O'QUINN: That is true, Your Honor.
17 However, she's the purchaser, so I'm trying to get an
18 understanding.

19 BY MR. O'QUINN:

20 Q. Did you engage in the purchase of this
21 transaction as trustee, were you the purchaser?

22 A. What do you mean by that?

23 Q. Look at the front page of the document.
24 Were you the purchaser purchasing this insurance
25 policy?

1 A. Well, Watershed purchased the policy. Then
2 Watershed sold it to the trust, and I was asked to
3 serve, by the grantor, Watershed, to be the trustee.

4 Q. And in connection with that role as trustee,
5 would you have been the person that paid the purchase
6 price for this policy, that caused the payment to be
7 made?

8 A. I don't -- no, I don't see that. The policy
9 could sit there on a shelf and it may not be sold. I
10 don't know if it was sold into the marketplace. This
11 one obviously was.

12 Q. I'm asking you about the sale that is
13 described in this document. Were you the purchaser in
14 a transaction described by this agreement?

15 A. I was the trustee.

16 Q. Okay. And in connection with your role as
17 trustee and purchaser, did you cause money to be paid
18 to the seller?

19 A. I don't even know how to answer that. I
20 have to think about that. Sorry.

21 Q. Take your time.

22 A. As trustee I -- I was asked to be trustee,
23 and I don't -- all I know was this policy was sold by
24 Quality Investments.

25 THE COURT: I have no idea what that answer

1 means. I have in front of me an Exhibit 9. It shows
2 the seller as Watershed, and the purchaser as a trust
3 identifying you as the trustee, and defined with the
4 word purchaser. There's a purchase price shown. How
5 did the purchase price get paid? That's the question,
6 isn't it?

7 MR. O'QUINN: It is.

8 THE WITNESS: Okay. Thank you, Your Honor.
9 It's a lot easier when he talks.

10 Quality Investments would market the asset.
11 I don't know what they charged to the public, or how
12 they solicit or marketed their policy. Funds would be
13 received into the escrow account.

14 THE COURT: Held by you?

15 THE WITNESS: Held by me. The management
16 company would keep track of what investors were
17 involved in a particular fund. Not me.

18 THE COURT: Well, ignore that. This is the
19 acquisition of the policy by the trust?

20 THE WITNESS: Right.

21 THE COURT: Correct?

22 MR. O'QUINN: Yes, Your Honor.

23 THE COURT: Okay. So here's the trust
24 acquiring the policy. Watershed was paid for the
25 policy, I assume, that's what the contract says. Who

1 actually made the payment?

2 THE WITNESS: The investors. Investor money
3 came in and that money would pay back Watershed for
4 its purchase of the policy.

5 THE COURT: It went into your escrow
6 account?

7 THE WITNESS: Yes.

8 THE COURT: So you must have caused the
9 transfer to be made to pay Watershed. Isn't that what
10 you're asking?

11 MR. O'QUINN: Yes, Your Honor.

12 THE WITNESS: Okay.

13 THE COURT: Is that accurate?

14 THE WITNESS: I guess, yeah. I don't --

15 THE COURT: I hand it back to you, Counsel.

16 BY MR. O'QUINN:

17 Q. And the purchaser who received that funds,
18 that was Watershed -- I mean, excuse me, the seller
19 that received that funds is Watershed; right?

20 A. Correct.

21 Q. That's Dennis Moens; right?

22 A. Correct.

23 Q. He's the guy that you met with back in 2005,
24 around the same time you were talking with Frank Laan
25 in discussing the life settlement industry?

1 A. Correct.

2 Q. Now, Dennis Moens was involved in the
3 organization of Quality Investments; is that right?

4 A. I don't know that. I don't know that
5 at all. I know Watershed to be separate and distinct
6 from Quality Investments.

7 Q. Do you know whether or not investors were
8 told that Dennis Moens, who had such an integral part
9 in your role as trustee, whether he was the recipient
10 of that purchase price?

11 A. I don't know that.

12 Q. Do you know how much of that purchase price
13 went directly to Dennis Moens as a related party
14 to the offering?

15 A. I don't know that.

16 Q. Do you know whether or not investors were
17 disclosed that the purchase price was being paid to a
18 related party in the offering?

19 A. I don't know that.

20 THE COURT: Let me tell you all, I have a
21 half day trial starting at 1:30, and I do intend to
22 take a break about 15 minutes from now, which means if
23 you're not close to done, you're going to be waiting
24 until after that half day trial.

25 MR. O'QUINN: I'm very close to done.

1 THE COURT: Hold on. And if that goes
2 to the end of the day, I'm not doing this at the end
3 of the day.

4 MR. O'QUINN: Yes, Your Honor.

5 THE COURT: I'll have you back on Monday.
6 So you should focus on what you want to ask.

7 MR. O'QUINN: Yes, Your Honor.

8 THE COURT: Let me tell you all ahead of
9 time what I want to hear about. I have Exhibit 13,
10 which by the way, is admitted. And it's a trust
11 agreement, is it not?

12 MR. O'QUINN: Yes, Your Honor.

13 THE COURT: Okay. I want to know how many
14 trust agreements there are, and whether this
15 particular trust agreement is associated solely with
16 the debtor, and then I want to know about the
17 co-mingling, and I want to know whether it's
18 consistent with this agreement or not consistent with
19 this agreement. And by the way, the agreement
20 incorporates Florida statutory law. That's what I
21 want to know.

22 MR. O'QUINN: Yes, Your Honor. Let's start
23 at the beginning of that.

24 BY MR. O'QUINN:

25 Q. The trust agreement that we've discussed

1 here today, Exhibit 13, let's go back to that. That
2 is the trust agreement --

3 MR. ELAM: I don't have an Exhibit 13.

4 THE COURT: It's the unredacted -- Mr. Elam,
5 it's just the unredacted version of 8. Do you have a
6 copy?

7 MR. ELAM: Yes, sir, I do.

8 THE COURT: I'm not sure the names add
9 anything for any of us, but they are there.

10 MR. O'QUINN: It does help to tie into the
11 petitioning creditors, Your Honor.

12 THE COURT: Okay, understood. Well, right,
13 two of them are listed.

14 MR. O'QUINN: Yes, Your Honor. And we can
15 provide additional documentation to extend, but I will
16 try to narrow this down.

17 THE COURT: Well, even Exhibit 8, that's not
18 redacted, the identity of the two beneficiaries.

19 MR. O'QUINN: That's true, Your Honor.
20 Thank you.

21 BY MR. O'QUINN:

22 Q. This trust agreement, is it similar to the
23 trust agreements that were executed in connection with
24 the other life settlement transactions undertaken by
25 Watershed and Quality Investments?

1 A. I believe so.

2 Q. And was your role in connection with those
3 trust agreements consistent with your handling of this
4 trust agreement?

5 A. Yes.

6 Q. And your interpretation of your duties in
7 connection with those other trusts, how many of them
8 are there?

9 A. I'd have to count, but it's over, I believe
10 over 55.

11 Q. Was your handling of those other 55 trust
12 accounts and agreements similar to your handling of
13 this trust agreement?

14 A. Yes.

15 Q. Were all of those trust agreements pursuant
16 to Florida law?

17 A. Yes.

18 Q. Did they all involve Florida entities in the
19 same manner that the petitioning creditors are
20 involved?

21 A. Yes.

22 Q. I mean, excuse me, the alleged debtor is
23 involved?

24 A. Yes.

25 Q. In connection with the revelation that PCI

1 was not going to be providing adequate maturity
2 coverage, were you involved in discussions with the
3 investors following that date?

4 A. Concerning what?

5 Q. Concerning the payment of premiums.

6 A. Yes.

7 Q. And did you solicit additional premiums from
8 investors?

9 A. Initially, no.

10 Q. At any point?

11 A. Later on, yes.

12 Q. And in connection with the solicitation of
13 additional premium funds, did you discuss with each
14 investor how you would use those premium funds?

15 A. No.

16 Q. Did you collect funds from investors and put
17 them together in a single pot that you could use to
18 administer the 50 some odd trusts that you were
19 dealing with?

20 A. Grantor set up the escrow accounts and I
21 followed their instructions in placing -- in receiving
22 those moneys and allocating them accordingly.

23 Q. And when you say the grantor, who are you
24 identifying?

25 A. Dennis Moens.

1 Q. Do you know where Dennis Moens is today?

2 A. I believe in Spain.

3 Q. Do you know where Frank Laan is today?

4 A. I don't know.

5 Q. Have they been criminally charged for their
6 conduct in connection with this offering?

7 A. They have.

8 Q. In what country?

9 A. Holland.

10 Q. Have you informed investors that there were
11 imminent lapse problems with the policies that you're
12 dealing with?

13 A. Yes.

14 Q. Have you informed investors that those
15 lapses threatened the very res that would pay up their
16 payments?

17 A. I'd have to read my letters again, but
18 I think I made it clear that the preservation of the
19 assets required additional premiums to be made.

20 Q. And when you collect those moneys, you're
21 putting those moneys into a collective pot and using
22 them as you believe is necessary in the immediate
23 moment?

24 A. For lapsing policies, correct.

25 Q. Without obtaining consent from individual

1 investors related to the various policies affected?

2 A. Correct.

3 Q. Ms. Peck, have you ever told investors that
4 you were tired of being in the role of trustee?

5 A. Publicly?

6 Q. In any context.

7 A. I believe I had a couple of conversations
8 where I was terrorized by investors and I may have
9 said it in my emotional state.

10 Q. Did you tell investors in Holland by a skype
11 that you would be glad to give up of the reins of
12 these trusts if you could find somebody willing to do
13 it?

14 A. I don't recall that.

15 Q. How much money have you personally been paid
16 for your role as trustee for these 50 some odd
17 trusts?

18 A. Over the course of six years, is that what
19 you're referring to?

20 Q. Yes.

21 A. About 3 million dollars -- \$500,000 a
22 year.

23 Q. And have you received any other pecuniary
24 benefits, other than \$500,000 a year as compensation
25 for being a trustee?

1 A. There are perks along with the position.

2 Q. Can you describe the perks?

3 A. Dennis Moens would take a trip. I would
4 take it with him, and of course, his associates, and
5 he may charter a plane.

6 Q. Is that a private jet?

7 A. Yes. It was for business purposes.

8 Q. How about boats, did you ever go out on a
9 boat with Dennis Moens?

10 A. Yes.

11 Q. Were they boaters?

12 A. Were they boaters? Sorry.

13 Q. Did they own catamarans?

14 A. Not here in the States, and I've never been
15 on one in Europe.

16 Q. How about your home, did you receive any
17 assistance in paying for real estate from Dennis
18 Moans?

19 A. I owned my home since the end of 1999, which
20 is several years before I met Dennis Moens.

21 Q. Do you own any property jointly with Dennis
22 Moens?

23 A. I do.

24 Q. Where is that property?

25 A. He's a member of a corporation in Pahokee,

1 which was intended to be a neurological facility for
2 the neurologically impaired, and it's struggling.

3 Q. Do you act as trustee for any trusts for
4 Dennis Moens, other than those related to the Quality
5 Investments offering directly?

6 A. He asked me to be the trustee for a small
7 home he bought in West Palm Beach, who, I believe the
8 beneficiaries are his three daughters.

9 Q. Are you aware of funds being wired abroad,
10 over 20 million dollars wired abroad?

11 A. Yes.

12 MR. ELAM: Objection, Your Honor.

13 THE COURT: It was a very general question.
14 What do you mean, when?

15 BY MR. O'QUINN:

16 Q. Are you aware of 20 million dollars of funds
17 that were ultimately collected from investors being
18 wired abroad?

19 A. Yes, and I will explain. When the -- there
20 was the PCI arrest of the principals. The U.S.
21 Attorney General's Office, and whoever was doing the
22 investigation, started freezing some of Watershed's
23 assets believing they might be a co-conspirator.

24 It was discussed amongst the group whether
25 to protect the ability for Watershed to continue to

1 service the assets and pay premiums, whether that
2 money should be wired to the offshore Dubai accounts,
3 which they were, and Watershed continued to pay the
4 premiums and take care of the assets and everything
5 else they were obligated to pay until those assets,
6 those accounts were frozen by the Dutch government
7 sometime in, I think it was September, 2011.

8 Q. And did you cause those wires to take
9 place?

10 A. Yes.

11 MR. O'QUINN: Your Honor, no further
12 questions.

13 THE COURT: Mr. Elam, we're going to take a
14 break, and I'll give you another 15 minutes, if you're
15 not done we'll figure out how to deal with it.

16 CROSS EXAMINATION

17 BY MR. ELAM:

18 Q. Ms. Peck, I have a just a few general
19 questions for you. Have you ever been criminally
20 charged with fraud or breach of your fiduciary duty?

21 A. In the United States or Holland?

22 Q. Holland.

23 A. I have not. As a matter of fact, I hired a
24 law firm, Simmons and Simmons, who made application to
25 the Court to acquire the file from the Dutch

1 authorities. The Dutch authorities made a motion
2 before the Court that I was neither a criminal suspect
3 nor a suspect.

4 Q. Have you ever testified for any entity in a
5 prosecution case?

6 A. I have. In March of 2012 I was asked by the
7 Attorney General's Office --

8 MR. O'QUINN: Objection, Your Honor.
9 Relevance.

10 THE COURT: Isn't it the exact set of
11 transactions that I've been hearing about this
12 morning?

13 MR. O'QUINN: No, Your Honor. The question
14 was whether or not she testified -- sorry, Your Honor.
15 The question was whether she testified on behalf of a
16 government agency.

17 THE COURT: I don't know what's happening
18 next. Overruled. Go ahead.

19 BY MR. ELAM:

20 Q. Have you ever testified on behalf of a
21 government agency relating to any kind of fraud as to
22 any of the trusts that you have been related -- or
23 connected with?

24 A. Yes, I have. In March of 2012 there was the
25 PCI, Private Capital Indemnity trial in the U.S.

1 District Court in Virginia. I testified there on
2 behalf of the prosecution.

3 THE COURT: Which she had already said on
4 your direct examination. Go ahead.

5 BY MR. ELAM:

6 Q. Ms. Peck, the alleged debtor, is it your
7 knowledge that this type of entity is a collective
8 pool?

9 A. I think you're referring to MQIC. I have
10 hired a law firm in Holland, Clifford and Chance, who
11 has put MQIC on notice that they violated the
12 contractual agreements of the closed funds, as well as
13 Dutch laws for their organization. As far as I know,
14 there is an injunction that's being prepared that
15 should be filed against MQIC in the next few days.
16 Members against -- Members of MQIC against MQIC.

17 So the question of standing has been a very
18 important one, because the investors were not
19 permitted to organize as they have, and it is a
20 splinter group, meaning its one group amongst many,
21 and MQIC has paid very little in premium, I have a
22 stack of invoices, they owe several million dollars.

23 Their policies that their members are
24 beneficiaries of have been supported by the other 30
25 percent of the pool, there are approximately a

1 thousand investors, and that is Herkowitz, which is
2 the policy in question before the Court today, was
3 paid, not by MQIC, who was put on notice as of June
4 and July of the potential lapses of many policies,
5 including Herkowitz, and this policy was paid pay the
6 other investors.

7 Q. When you requested premiums to be paid by
8 all of the participants, did all of the participants
9 make extra premium payments?

10 A. No, they did not. Many of them withheld
11 their money. Some very affluent who refused to pay,
12 and on that basis whatever moneys we were able to
13 acquire through the investors who understood the
14 problem and wanted to preserve the assets, we used
15 their funds to preserve the assets. For eight months
16 I was able to keep the portfolio in good standing
17 without a single lapse, approximately eight months.

18 At that point, because there was MQIC
19 primarily, who was withholding their premium payments,
20 we started experiencing lapsing. We again put them on
21 notice that we required premium payments. They
22 surreptitiously have paid two policies, I should that
23 two lives, four policies, and let the others lapse.

24 At the same time, about two weeks ago, they
25 sent me a transfer agreement, and that agreement would

1 essentially carve out the policies for a preferential
2 group, namely MQIC. I refused to do that, because
3 from my standpoint as a trustee, I'm preserving the
4 assets for all, and I have all of the beneficiaries at
5 heart.

6 Q. What actions have you taken to preserve the
7 policy that's part of the alleged debtor here, the
8 Herkowitz policy?

9 A. Well, this policy came very close to
10 lapsing. MQIC was put on notice that this policy was
11 lapsing. I contacted the carrier every single day.

12 There was a -- I'll back up. There was a
13 meeting in Holland about a month ago, maybe a little
14 less, where the chairman of MQIC -- and by the way,
15 the board consists of all brokers. The brokers are
16 now possibly -- well, they were under investigation in
17 Holland -- or Belgium. These are primarily Belgium
18 investors, it's a Belgium organization, they're under
19 investigation for their own role in selling the
20 policies. They consist of the board of MQIC.

21 MQIC was put on notice about lapsing
22 policies. They agreed to pay the carriers directly.
23 I said -- they asked me if they could pay the carriers
24 directly. I said that's great. We provided them with
25 wire coordinates, which we can confirm, and they did

1 not pay a single policy.

2 We experienced over 52 million dollars in
3 lapsing due to MQIC's behavior, or actions, or
4 inaction, I should say. And again, I continued to
5 perform my duties as trustee with the moneys that I
6 received to keep what policies I could from lapsing.

7 If the premium was too high, as many were,
8 it lapsed. If the premium was within the boundaries
9 or realm of what I currently had in my escrow account,
10 we paid the money. In this case Herkowitz, we had the
11 money. I, of course, had no notice of this petition.
12 On Tuesday MQIC certainly had knowledge of the lapsing
13 policy, and I was able to pay the premiums.

14 Mr. Ortman and Mr. Vandoorne, and I don't
15 know about Mrs. Ortman, that's a new one to me, but
16 both of them I have a stack of e-mails where my
17 attorney, as well as MQI, put them on notice of not
18 only the lapsing policies, but the deficiency that
19 they had in not giving us their premium funds.

20 MR. O'QUINN: Your Honor, I would just ask
21 that this be in a question and answer format. This
22 appears to be a narrative, so we object.

23 THE COURT: Well, overruled, because it was
24 somewhat responsive, but it would be nice if you asked
25 questions.

1 Let me interpose a few questions of my own,
2 because there's some basic things that I don't
3 understand.

4 The alleged debtor is a corporation?

5 THE WITNESS: Correct.

6 THE COURT: It's a Florida Corporation?

7 THE WITNESS: Correct.

8 THE COURT: What is its relationship with
9 the trust?

10 THE WITNESS: The trust owns all the shares
11 of the corporation, and the corporation is a
12 beneficiary of the trust.

13 That was created, I'll tell you why, because
14 you'll probably wonder why, there's a ruling that came
15 out, IRS Ruling 2009-14, at that time there was
16 concern, it applied -- the ruling was an IRS ruling
17 that dealt with life settlements. There was a concern
18 that there could be taxable consequences to the
19 foreign investors. The accountants considered, and
20 they came up with a vehicle whereby they thought this
21 would continue to protect the, I'm not a CPA, by the
22 way, protect the investors' interest, the
23 beneficiaries.

24 THE COURT: Hold on. Hold on. But the
25 policy is held by the trust?

1 THE WITNESS: Correct.

2 THE COURT: And the trust also owns the
3 corporation?

4 THE WITNESS: The trust owns all the shares
5 in the corporation.

6 THE COURT: All right. Not the other way
7 around, obviously. It doesn't own the beneficial
8 interest?

9 THE WITNESS: No.

10 THE COURT: Okay. We need to have a little
11 aside here. So does our debtor own anything?

12 MR. O'QUINN: Your Honor, it's our position
13 that the debtor corporation is the record owner of the
14 policy and the record beneficiary of the insurance
15 policy.

16 THE COURT: Is that accurate?

17 THE WITNESS: I'm sorry, I wasn't listening.
18 I got a little --

19 THE COURT: Is the corporate entity the
20 record owner of the insurance policy?

21 THE WITNESS: In the eyes -- I always look
22 at the eyes of the carrier, because the carrier will
23 identify the owner, and that is the corporation, I
24 believe --

25 THE COURT: Okay. Good. All right.

1 Understood.

2 MR. O'QUINN: I direct the Court to Exhibit
3 10.

4 THE COURT: All right. And this is actually
5 from Lincoln and it identifies the holder of the
6 policy; correct?

7 MR. O'QUINN: Yes, Your Honor, as the
8 alleged debtor.

9 THE COURT: Very good.

10 MR. GOLD: Again, it's redacted, but --

11 THE COURT: All right. But Ms. Peck just
12 said that this was the case.

13 Now, this corporate entity that is the
14 alleged debtor, is this the only policy related to it?

15 THE WITNESS: Absolutely.

16 THE COURT: Is there a separate corporation
17 for each of the 55 plus number of trusts that you
18 testified about earlier?

19 THE WITNESS: Almost all. I think there are
20 two that have remained trusts.

21 THE COURT: All right. I'm going to tell
22 you all what my focus is going to be. I've heard that
23 there are assets of these various entities, which are
24 trusts, that have been used to assist the other
25 entities. There's been money transferred back and

1 forth. Why is that okay? That's going to be my
2 focus. Why is that okay?

3 I'm familiar with Florida law. There's only
4 one way as far as I can tell that it would be okay,
5 and that's if the trust document says that it's okay.
6 Otherwise, you've taken money from one entity and
7 given it another.

8 The filing of a petition, including an
9 involuntary petition, results in the formation of an
10 estate. It doesn't wait until the order for relief is
11 entered. There's an estate right now. And that
12 estate cannot be used to fund anything else. It is
13 sacrosanct. The stay applies to it in the meantime.

14 So if what would be happening tomorrow or
15 Sunday, probably impossible, Monday, Tuesday and
16 Wednesday, would be the use of anything from this
17 entity, the debtor and the related trust, for the
18 benefit of any other trust, I want to know why that's
19 okay. Because unless you can convince me it's okay,
20 then there will definitely be an interim trustee
21 appointed.

22 And based on the testimony I've heard, the
23 motion for continuance is denied.

24 BY MR. ELAM:

25 Q. Ms. Peck, based upon the questions, or the

1 statement we heard, have you used any other funds in
2 any of the other trusts to fund any premiums for other
3 trusts or any lapsing policies that might be owned by
4 a separate entity?

5 A. As I've stated, the funds that came in for
6 premiums were placed into a collective pool for the
7 benefit. My duty under the trustee is to preserve the
8 asset. And I understand that my discretionary powers
9 are to do whatever I can in my power to do that. And
10 therefore, I would, on a case by case basis, as a
11 policy was lapsing, do my utmost to preserve the
12 asset.

13 Now, I have to point out that there are any
14 number of investors in any given policy. Because of
15 that, if one investor out of ten, I don't know how
16 many are here, but say there are ten, sent in money,
17 that would not keep the asset alive. This is a
18 perfect -- Herkowitz is a perfect example of that.
19 They're here today to preserve the asset, and yet they
20 did not pay a premium to us, and others, the
21 collective pool, kept it in force.

22 And there still remain 30 percent of the
23 investors that are not party to or have memberships in
24 MQIC.

25 Q. What did you base your knowledge upon to

1 transfer or use funds of other trusts to make payments
2 based upon lapsing policies?

3 A. I consulted with other attorneys, given the
4 exigent circumstances and the need -- well, just to
5 back up. Watershed's assets accounts were frozen. We
6 were no longer receiving moneys from Watershed after
7 their arrest, therefore there was no money to keep any
8 assets in force.

9 I consulted with the attorneys in Holland
10 about what my duties would be, and they said simply to
11 notify the investors, the beneficiaries of the closed
12 funds, of the need for premiums to keep the policies
13 in force. I have done that consistently for the last
14 eight plus months.

15 MR. ELAM: Just a second, Your Honor.

16 THE WITNESS: And I will also add that that
17 remaining 30 percent would be damaged by this asset
18 being claimed by MQIC, who does not represent a
19 hundred percent of the pool. And again, it was those
20 30 percent that kept this policy in force.

21 THE COURT: You may have answered this
22 question a few minutes ago. Where did the funds come
23 from this week to pay --

24 THE WITNESS: The 30 percent MQIC consists
25 of --

1 THE COURT: Outside of what you already
2 held. None of the funds used to pay the premium were
3 in an account that you already held, it arrived this
4 week and then it was used to pay the premium?

5 THE WITNESS: Over the last several, I mean,
6 I have to go back and check exactly, but it started
7 accumulating. The remaining 30 percent were
8 consistent in sending in their premiums. The MQIC,
9 Mr. Ortman, Mr. Vandoorne, and Mrs. Ortman did not
10 send in any premiums. So their asset was preserved by
11 the remaining 30 percent.

12 Can I ask myself a question?

13 THE COURT: No.

14 MR. ELAM: Your Honor, I have no further
15 questions.

16 THE COURT: All right. Do you have anything
17 you wish to ask?

18 THE WITNESS: Do I have a right to add
19 something?

20 THE COURT: You can consult with your
21 counsel, and if he wishes to call you as a witness on
22 behalf of the debtor, he may do so. Wait until you're
23 down from the stand though. You're not excused yet.

24 THE WITNESS: Sorry.

25 MR. O'QUINN: No, Your Honor, nothing

1 further.

2 THE COURT: You're excused for the purposes
3 of having been called by the movant. Why don't you go
4 and talk to Mr. Elam and then you can tell him what
5 you want to do.

6 I'm going to take a break. If we need to,
7 I'm going to eat into the 1:30 trial a little bit
8 in order to resolve this matter, because I think you
9 might be done.

10 MR. GOLD: With testimony, we certainly are
11 done as the movants, Your Honor.

12 THE COURT: And then you can tell me if you
13 need to recall Ms. Peck in order to address any issues
14 at that point. We'll come back at 1:30.

15 My question to the alleged debtor is going
16 to be, there's some interesting things in this trust
17 agreement. For example, there's an absolute
18 prohibition on requesting additional premium from the
19 beneficiaries, and I didn't see anything in here which
20 would allow the trustee -- remember, a trustee is a
21 fiduciary independent to each trust. You have Sun
22 Trust is a good example, has thousands of corporate
23 trust accounts. They don't get to share the money
24 from one with another one, unless there's a group of
25 pools, common trust funds or the like, that

1 specifically say that. I did not see that in this
2 trust agreement. Strangely --

3 MS. FEINMAN: Your Honor.

4 THE COURT: Yes, Ms. Feinman, I'm sorry, I
5 was actually leaning way back.

6 MS. FEINMAN: Thank you. It is fading in
7 and out, and I don't know if it's because people are
8 not talking right into the microphone.

9 THE COURT: Understood. All I was saying
10 is, that the trust agreement that I have does not, as
11 far as I could see, does not specifically empower the
12 trustee of this particular trust to use any of its
13 assets anyplace else. Strangely, it may be that the
14 trust benefitted by this practice. But I would be
15 concerned about what happens after today. I don't
16 want to hear about that right now.

17 I'm going to come back at 1:30. You've all
18 forced me to go to Walgreens for lunch. So I'm going
19 to take a brief break. I'll see you at 1:30.
20 Anything before I depart?

21 MR. GOLD: I was just going to say, in terms
22 of the remainder of our presentation, it would just be
23 closing argument, based on what we've heard here
24 today.

25 THE COURT: Understood. Right. But I want

1 to give Mr. Elam a chance to consult with Ms. Peck.

2 MR. GOLD: Absolutely.

3 MS. FEINMAN: And Your Honor, since I am the
4 only one that is on court call, and since it is fading
5 in and out, is it possible for you just to call me
6 back?

7 THE COURT: Absolutely. Give Ms. Klopp the
8 telephone number. Very good. See you all at 1:30.
9 Court is in recess.

10 (A lunch recess was taken, after which the following
11 proceedings were had.)

12 THE COURT: Welcome back, everyone. Please
13 a seat. I assume, Mr. Gold, that you should go first.

14 Oh, wait a minute. Did you wish to call Ms.
15 Peck, I'm sorry?

16 MR. ELAM: Yes, Your Honor, I would like to
17 call Ms. Peck.

18 THE COURT: Ms. Peck, if you could please
19 come back. Do I have Ms. Feinman on the telephone?

20 MS. FEINMAN: Yes, you do, Your Honor.

21 THE COURT: Hopefully the sound is better.

22 MS. FEINMAN: It is much clearer. Thank
23 you.

24 THE COURT: Ms. Peck, please remember you
25 remain under oath. Understood?

1 THE WITNESS: Yes.

2 THE COURT: Thank you. Mr. Elam, whenever
3 you're ready.

4 DIRECT EXAMINATION

5 BY MR. ELAM:

6 Q. Ms. Peck, could you please turn to Exhibit 3
7 in the petitioning creditors' exhibit register?

8 A. I have it.

9 Q. Could you turn to page 25 in that, looking
10 at Article 10?

11 A. Okay.

12 Q. Would you read number 1?

13 A. Of Article 10?

14 Q. Yes, ma'am.

15 A. 1, "A transfer of the title of
16 participations will only be possible to the other
17 participants, the fund itself, or to the next of kin
18 in the direct line of the participant". You want me
19 to read the next one?

20 Q. Yes.

21 A. 2, "In case participations constitute part
22 of an undivided estate for the joint rightful
23 claimants can only have themselves represented towards
24 the fund by a person duly appointed by them in
25 writing".

1 Q. Is it your belief that based upon this
2 article that a participant may not transfer its
3 interest in the fund to any other person other than
4 someone next of kin?

5 A. That's the legal opinion I have from a Dutch
6 law firm, yes.

7 Q. Please turn to Article 12. Do you mind
8 reading number 1, management and custody?

9 A. 1, "The custodian can, following
10 consultation with the manager, in case, at the
11 discretion of the custodian and the manager, of an
12 unequal proportion between active and inactive
13 participants impose all measures which the custodian
14 and the manager deem necessary in order to guarantee
15 the continuity of the fund. One of the measures which
16 the custodian and the manager may impose in this case
17 is to pledge the policy to an American bank who will
18 take over the premium obligation whereby the fund will
19 be held to pay the bank a compensation equal to at
20 least 7 percent of the final payment effectuated by
21 the insurer".

22 Q. Does the statement, impose all measures, did
23 you feel that that gave you the right to use any of
24 the pooled funds to pay the lapsing premiums?

25 A. I don't believe I relied on this

1 specifically, but I'm glad to see that it provides
2 discretionary powers to protect the assets. I have
3 relied on my duties as a fiduciary to the assets and
4 to the funds to do everything within my power to
5 preserve them.

6 THE COURT: Okay, you've now lost me. This
7 fund has only a single policy?

8 MR. ELAM: Right.

9 THE COURT: Aren't you asking questions
10 about co-mingling of assets between --

11 MR. ELAM: Yes, Your Honor.

12 THE COURT: -- this particular fund and the
13 related trust and --

14 MR. ELAM: Right.

15 THE COURT: Hold on, let me finish the
16 question -- and related corporation, fund trust
17 incorporation, which has a single policy, with other
18 similar funds, trusts, and corporate entities that
19 have other policies. Isn't that different from this?

20 MR. ELAM: Well, each one of the different
21 corporations would be signing the same policy. So it
22 would be our position that she can take whatever
23 measures to --

24 THE COURT: Well, there's different
25 policies.

1 MR. ELAM: Right. I'm sorry, I misspoke.

2 THE COURT: Different insurance policies.

3 MR. ELAM: I misspoke. The different
4 entities. Like here it's the SLF. Each entity would
5 execute one of these documents, and we think that
6 that's what gives her the right to --

7 THE COURT: It doesn't reference any other
8 documents; correct?

9 MR. ELAM: Well, it represents -- or it
10 references the fund, and that's, to us, it gives us
11 the right to transfer --

12 THE COURT: Isn't the fund just this fund
13 related to this particular --

14 MR. ELAM: Right. But we think that each
15 one of the different entities had signed the same
16 document, and they're all in a pool.

17 THE COURT: How are they in a pool? That's
18 what I want to know.

19 BY MR. ELAM:

20 Q. Ms. Peck, could you explain how each
21 document, or each policy, is in a pool?

22 A. I did not write this participation
23 agreement. All I know is that the participants signed
24 it. So to that extent, I do understand that there's
25 certain items that would apply to all investors by

1 virtue of this contract that they signed, namely,
2 restrictions against transfer, et cetera.

3 My actions were honestly taken to preserve
4 the assets to the best of my ability for the benefit
5 of the beneficiaries within the closed funds. And I
6 would -- I haven't, given that I'm here with very
7 little notice, and I had little time, and my attorney,
8 he's totally new to all of this, even knowing what a
9 life settlement was overnight, we have had little time
10 to prepare and to offer a more definite explanation.

11 MR. ELAM: We have no more questions, Your
12 Honor.

13 THE COURT: Anything else?

14 MR. O'QUINN: No further questions, Your
15 Honor.

16 THE COURT: Thank you, Ms. Peck. You can
17 step down. Let's have Mr. Gold go first.

18 MR. CHARBONNEAU: Your Honor, your exhibits
19 are unredacted?

20 THE COURT: I have all redacted exhibits,
21 except for what is now admitted as 13, which is
22 otherwise identical to 8. Do I need anything else
23 unredacted?

24 MR. CHARBONNEAU: I don't think so, Judge.
25 If there was an unredacted copy I wanted the Court to

1 have it, but --

2 THE COURT: Okay. I'm not concerned because
3 all it is is the name of the insured, policy number,
4 and we've had some testimony about that as well.

5 MR. GOLD: As Your Honor just heard through
6 Ms. Peck's last series of answers to direct by her
7 counsel, and as Your Honor pointed out, those actions
8 that she has taken that are supposedly covered by the
9 clauses that her counsel had her read, as you point
10 out, refer to the fund.

11 The fund as identified in that particular
12 prospectus is the CLSF III/IV fund. It is not funds.
13 It is not every CLSF fund. It is that fund. And each
14 prospectus that I believe Your Honor will perhaps have
15 the displeasure of seeing over the course of this
16 case, will have similar language, but identify a
17 different fund.

18 So to come back to that point, Your Honor,
19 I think you were getting at Ms. Peck's authority to
20 co-mingle funds, to use investor funds from one fund
21 to pay the premiums of another fund.

22 In this particular instance it may seem
23 fortuitous and perhaps to Ms. Peck it seemed
24 fortuitous, that the policy, the Herkowitz policy that
25 we've been talking about, that is the property of the

1 alleged debtor, that that premium has been paid, and
2 that premium was paid on Monday, just before a
3 termination, or just before a lapse.

4 A couple of points to be made about that,
5 Your Honor. It doesn't cleanse, it doesn't serve the
6 purpose that Mr. Elam had mentioned at the beginning
7 of the hearing, to basically remove the danger, remove
8 the threat of irreparable harm to the investors,
9 because we may very well be back here in another few
10 months when Ms. Peck, as is consistent with her
11 testimony, once again is without funds to pay the
12 premiums, to preserve that policy on a going forward
13 basis.

14 Mr. O'Quinn asked her on direct whether she
15 had adequate reserves going forward to pay premiums
16 for the various life insurance policies. Her
17 testimony was that she does not.

18 THE COURT: Well, that's not surprising in
19 light of the letters. I mean, what she says is that
20 she's attempting to bring in the funds in order to do
21 that.

22 MR. GOLD: That's right. And that's
23 important for a couple of reasons. One, as I pointed
24 out, if we don't get the relief we're seeking today,
25 we could be back here in the next quarter when the

1 next premiums are due, because as we've indicated to
2 you before, our clients just will not pay her more
3 money to preserve the policies.

4 Now, the flip side of that is our clients
5 certainly would pay an interim trustee, or a trustee,
6 an independent fiduciary appointed to protect their
7 interests, those very funds to preserve -- to preserve
8 that policy on a going forward basis, Your Honor, and
9 create the adequate reserves where that trustee could
10 administer the alleged debtor going forward. That's
11 point one.

12 Point two is, as Your Honor heard through
13 Ms. Peck's testimony over and over, through her
14 efforts to collectivize premiums for the benefit of,
15 as she characterized it, all of the investors, that
16 action is, we would submit, ultra vires, and not
17 supported by the individual trust documents. In this
18 instance, as Your Honor looked through the trust
19 agreement for CLSF III/IV, you pulled out the
20 provision itself that prohibits her from doing so.

21 So in this particular instance, while our
22 alleged debtor may be the beneficiary of that
23 transfer, there is another debtor -- or, I'm sorry,
24 there is another fund out there and another trust out
25 there, which is now the victim of a fraudulent

1 transfer. So our alleged debtor here may very well be
2 a defendant in a fraudulent transfer action. And if
3 we don't have a trustee appointed in this case, we may
4 very well have one appointed in another who turns
5 around and would sue this alleged debtor, and this
6 alleged debtor may or may not be in bankruptcy at that
7 point.

8 But I think what Your Honor is seeing is
9 that the actions taken by Ms. Peck to do what she
10 terms is in the best interest of the investors
11 generally, is not supported by the trust documents,
12 is, in fact, a violation of her duty to the individual
13 beneficiaries that have been identified under the
14 trust document that Your Honor has in front of you.
15 Those beneficiaries are named.

16 For Ms. Peck to claim that she is receiving
17 exhibits to trust documents that she is signing ahead
18 of time, without seeing who those named beneficiaries
19 are, who are, by her testimony, tacked on after the
20 fact, strange credibility, certainly that's a
21 determination for Your Honor to make.

22 But I would imagine any trustee, who is also
23 a licensed attorney, whether or not in the appropriate
24 state, would probably take the extra step of seeing
25 who it is to whom she owes that fiduciary duty,

1 especially when those beneficiaries are referenced
2 in the trust document itself.

3 So the point about the investors being made
4 known to her, if it was not made known to her, she
5 owed them duties anyway. She owes them duties now.
6 And she doesn't just owe them duties from the time
7 that the PCI fraud was discovered.

8 Let's talk about that for a second. Your
9 Honor had asked up front about sort of the situation
10 regarding what are the structure of these funds, how
11 are the premiums paid, how are investor moneys taken
12 care of, what was the flow of money, just explain the
13 structure to me. We did that, and certainly Ms. Peck
14 did that through her testimony.

15 One of the very last things she testified
16 about on Mr. O'Quinn's direct was a specific transfer
17 of, I believe it was 29 million dollars, overseas.
18 And her testimony was that after the PCI fraud was
19 discovered, her testimony was, we became concerned
20 that the authorities would not let us make more
21 transfers out of the Watershed trust accounts, and as
22 a result, through, I believe her testimony was the
23 direction of Mr. Moens, transferred money out of the
24 trust account.

25 And I couldn't tell you whether you it was

1 the trust account pinned to our particular alleged
2 debtor, because it sounds like there's really just one
3 trust account that she claims is owned by Watershed,
4 but that transfer was made to Dubai, it was made to
5 Dubai after the PCI fraud was discovered, how that
6 transfer could be justified.

7 It could have been made to protect
8 investors, and how that could have been somehow either
9 disclosed that a transfer like that could be made
10 either in the prospectus or any of the other offering
11 documents that our investors received, or how it would
12 have been justified under the trust document to which
13 our debtors -- I'm sorry, our petitioning creditors
14 are appended as beneficiaries. I don't think under
15 any of those documents a transfer of that sort would
16 have been justified, or could be approved even after
17 disclosure.

18 I think what we've seen, Your Honor, are
19 multiple violations of Ms. Peck's fiduciary duties.
20 Certainly not just to these petitioning creditors, but
21 to the investor body in general.

22 I think what we're looking at is a situation
23 where, if she's allowed to stay in control of this
24 particular debtor, and certainly of the debtors who
25 are out there on the horizon, and I believe going to

1 be pulled into this case at some point very soon, to
2 allow her to remain in a position of fiduciary trust
3 just flies in the face of what real fiduciary duty is.
4 She's acting in a way that's in violation of the trust
5 documents. She's facilitated transfers that are in
6 violation of her fiduciary duty.

7 We haven't heard anything from her today
8 that would cast any doubt of the findings in the FIOD
9 report. I know it's not in evidence right now, but
10 certainly, as the case unfolds, I believe everything
11 we'll see will vindicate the findings in that
12 report.

13 For purposes of today, Your Honor, I think
14 you've heard enough to appoint an interim trustee. As
15 Your Honor pointed out with one of your more pointed
16 questions before, unless through counsel and through
17 her testimony she could tell you how it is that those
18 intertrust transfers were okay, you would appoint an
19 interim trustee. I don't believe that explanation has
20 been made. She hasn't justified those actions. She
21 hasn't shown why, under the trust documents, or even
22 the prospectuses, why those transfers are okay. I see
23 no alternative but to appoint an interim trustee, Your
24 Honor.

25 THE COURT: Mr. Elam. And Ms. Feinman, I

1 will ask you for any input after Mr. Elam. Yes.

2 MR. ELAM: Your Honor, we're here on an
3 emergency motion to appoint a trustee.

4 We have gone through different background
5 and things that I don't think really are focusing the
6 point on this debtor. We're here under one entity and
7 one entity only. And we're here to look to see if the
8 assets have been diverted, depleted or secreted. They
9 haven't. We've shown that she's actually taken steps
10 that would save them.

11 Your Honor, we would point out that the
12 balancing test that you had mentioned when we first
13 started, that if she is not allowed to continue as the
14 trustee, that, as of September the 22nd, these
15 assets -- these policies will lapse.

16 I'm sure the petitioning creditors can stand
17 here today and say, we're going to, you know, put
18 money in. That doesn't mean that they're going to
19 when we need to. And we think that if we don't, that
20 this policy will end up lapsing.

21 Ms. Peck is the trustee that has working
22 knowledge of what's going on. She knows what she
23 needs to do to maintain the status quo. We think that
24 the petitioning creditors have not shown anything
25 that's happened to this debtor. They may have shown

1 something to other debtors, but that's not properly
2 before the Court.

3 We do challenge the standing, which, in our
4 answer to the involuntary, we will challenge standing.
5 I think we've shown that MQIC is violating the trust
6 documents themselves by the transfers to them. We
7 don't think that it's a proper creditor before the
8 Court.

9 THE COURT: They're not the only movant, are
10 they?

11 MR. ELAM: Right.

12 THE COURT: So I think it's multiple.

13 MR. ELAM: And we would like to be given
14 certain -- some time to review the actions of allowing
15 Ms. Peck to transfer payments from other debtors.

16 Other than that, we feel that the
17 petitioning creditors have not met their
18 burden of proof.

19 THE COURT: Understood. And before I ask
20 Ms. Feinman for any input, I need to make sure, Ms.
21 Peck, that you understand that Mr. Elam does not
22 represent you. He does not represent you
23 individually. He does not represent the trustee. He
24 does not even represent the trust. His role here is
25 to represent the alleged debtor, which is a

1 corporation that holds this particular insurance
2 policy.

3 There are inherent conflicts that arise that
4 makes it very difficult for him, and in fact, anybody
5 who represents a debtor in a Chapter 11 or a Chapter 7
6 corporate case, particularly in an 11, or under this
7 context. You need to keep that in mind. Mr. Elam
8 does not represent you personally. And I want to make
9 sure you don't get into that gray area. Ms. Feinman.

10 MS. FEINMAN: Yes, Your Honor.

11 The U.S. Trustee really is appearing today
12 just to ensure that if the Court does direct the
13 appointment, that we're aware of it and that Section
14 303 and all of the requirements are followed.

15 I don't have -- at this point I don't have a
16 position with respect to whether the Court should
17 direct the appointment of a gap trustee.

18 THE COURT: All right. Very good.
19 Thanks.

20 There were two matters, two documents,
21 proposed Exhibits 1 and 2, which I withheld ruling on.
22 First of all, let me address the specific evidentiary
23 issues, and then evidentiary issues in general.
24 They are documents 1 and 2. One of them is a report
25 in Dutch, and 2 is a certified translation of the same

1 report. There were two objections, a hearsay
2 objection and also an authentication objection.

3 Assuming that the Rules of Evidence apply in
4 general on this context, and I'm going to get to that
5 issue next, the hearsay objection is overruled. I
6 believe that under 8038 it satisfies the public
7 records exception. I did look at the case law which
8 was tendered, and I think that it's an appropriate
9 response to that objection.

10 With regard to authentication, assuming that
11 901 and 902 apply in general in a prophylactic way in
12 which they would otherwise apply in a trial on the
13 merits in the District Court or here, I do not believe
14 that the authentication objection is overcome.

15 There are specific rules governing this kind
16 of document. It is possible to allow conditional
17 admission of the document, but I think that the
18 requirement for investigation means a reasonable
19 opportunity to investigate, which has not happened
20 here.

21 Now, I mentioned earlier that the 10th
22 Circuit, in a statement that I would probably never
23 doc, I'm going to read you the sentence that is in the
24 10th Circuit decision, "The Federal Rules of Evidence
25 do not apply to preliminary injunction hearings".

1 Period. At all. I don't think I would ever go quite
2 that far, but I do think that this, and I'm going to
3 get to the connection between this, a 303(f), 303(g)
4 matter, I know this is (g) and not (f), and how
5 they are related to a preliminary injunction matter.

6 I think the 1st Circuit in the preliminary
7 injunction context put it in an appropriate light, and
8 I'll give you the cite, it's 805, Fed 2d 23, it's a
9 1986 decision, and the plaintiff is A-s-s-e-o, Asseo
10 against Pan American Grain.

11 The Court made it clear around page 25 that
12 when you have an injunction context where you're
13 considering emergency relief, taking into account the
14 kind of weight and factors that are also inherent in
15 303(f) and (g) actions, that the Court doesn't look
16 solely at the Rules of Evidence, you have to back up
17 from it a little bit, and determine, given the
18 expediency, what weight you're going to give to
19 things.

20 Remember, this is not a jury trial. It's a
21 judicial action, a Judge acting on his own, and I am,
22 I think I'm allowed to take into account the context.
23 There are a number of cases you can find that say a
24 303(f) action is essentially a preliminary injunction
25 matter. I think (g) falls under the same.

1 So I would overrule the objection with
2 regard to 1 and 2 and admit the report.

3 (Exhibits No. 1 and 2 admitted.)

4 THE COURT: In the end, I don't think it
5 matters. I don't think that's dispositive. That is
6 not, although it's helpful in me reaching a decision
7 here, I can reach a decision without referring at all
8 to Exhibit 2. I don't need to look at it.

9 Let's look just briefly at what's been
10 requested. We have a petition. The summons actually
11 is not yet served. I assume it will be served. Let
12 me make it clear that service by mail at the address
13 given at the beginning of this hearing, will be
14 sufficient for purposes of the rules.

15 And you may -- that does not mean that you
16 are prohibited from serving it any other way that's
17 allowed under the rules, including personal service if
18 you so desire, but service on that address will be
19 deemed sufficient, and will begin the clock ticking
20 with regard to the response.

21 The request here is that an interim trustee
22 be appointed. And 303(g) governs that. We need to
23 know that there's been adequate notice, notice of
24 service provision is not necessarily implicated in the
25 statutory requirement, to the debtor, to the United

1 States Trustee, and that, in my view, has occurred.

2 The standard stated in the statute is, if
3 necessary to preserve the property of the estate or to
4 prevent loss to the estate. It seems very simple when
5 you read those two things. In reality the Courts have
6 applied a gloss to those, as you all know. And it
7 really boils down to two different steps in the
8 analysis.

9 The first is whether there will be
10 substantial likelihood of loss or some other harm to
11 the estate unless the status quo is maintained by the
12 appointment of an interim fiduciary answering to the
13 Court. And the second is to balance that harm, to see
14 what harm there might be to the alleged debtor.

15 I'm going to jump briefly to the balancing,
16 just to comment. The balancing, as many of you know,
17 because we've had an amazing number of involuntaries
18 in this District in the last couple of years, usually
19 the harm is, we have an operating entity whose
20 reputation will be substantially harmed by having a
21 pending bankruptcy, by having somebody who has taken
22 control of the entity.

23 This is not your usual entity, operating
24 entity. Its sole purpose is to facilitate a specific
25 investment with a specific set of beneficiaries.

1 There is a fiduciary obligation involved. There's no
2 ongoing obtaining new business. The business is to
3 deal with a single insurance policy and to take the
4 legal rights associated with the underlying investment
5 and take advantage of them for the benefit of a
6 specific list of beneficiaries. It's not the usual
7 kind of harm that I see in one of these cases.

8 And so I think that the balancing side
9 favors the appointment of an interim trustee. That's
10 sort of really backwards, frankly.

11 Looking at substantial harm. Admittedly,
12 when I read the motion the thing that I focused on was
13 Exhibit 2. But during the presentation today the
14 facts which came out with regard to the co-mingling of
15 assets among the various entities was very troubling
16 to me.

17 I'm going to go back to what I said during
18 the presentation earlier. This is an involuntary
19 bankruptcy case. Under Section 541 as soon as the
20 petition is filed, we have an estate. That estate is
21 the assets only of this entity.

22 What is the entity? It is a Florida
23 corporation. It essentially owns only, there may have
24 been some money that it owned, but it owns only a
25 particular life insurance policy on the life of an

1 individual. That entity is, in turn, controlled by a
2 trust, and the beneficiaries of that trust have the
3 benefit of the life insurance policy. It's the entire
4 purpose of the trust.

5 The trust itself, and I have it admitted at
6 both 8 and 13, 13 is an unredacted version, is a very
7 simple trust agreement. Ms. Peck is the trustee.
8 There are specifically listed beneficiaries. There
9 are a limited number of enumerated duties and controls
10 in this particular trust agreement. Otherwise, it
11 incorporates the Florida Trust Code.

12 The Florida Trust Code reflects essentially
13 theis statement of trust. It's very straightforward.
14 The primary duty of a trustee -- the primary two
15 duties are protection of trust assets and duty of
16 loyalty. We have, I believe a concern in both regards
17 in this case.

18 Each trustee is a fiduciary independent of
19 his or her actions as trustee in any other matter for
20 which they may act as trustee, unless the trust
21 specifically provides otherwise. So if you have a
22 hundred trusts, you are a different person for each
23 trust. The trustee is an independent person for
24 purposes of each trust.

25 That independent person owes a specific

1 fiduciary duty to the beneficiaries of each and every
2 trust. That duty of loyalty and that duty to protect
3 the trust assets applies solely to the corpus of that
4 trust.

5 It is inappropriate to give away the assets
6 of the trust. You can make loans, of course. The
7 Florida Trust Code allows for loans and investments.
8 In fact, the trust agreement specifically allows for
9 investments which are, I think prudent is the word
10 that it uses.

11 Nothing I've heard suggests that the
12 co-mingling amounted to prudent investments. In fact,
13 there was nothing that would lead me to believe
14 there's any thought given to whether or not the funds
15 would be repaid among the entities.

16 Does it matter, as Mr. Elam, I think you
17 made the best possible argument, and I suggested it
18 before the break as well, does it matter that this
19 particular debtor may have, in fact, benefited from
20 that? It does not.

21 And the reason it does not is because if it,
22 in fact, did benefit, that's an ephemeral benefit. It
23 actually subjects the debtor to a claim. So the
24 trustee has put the debtor in the position of being
25 sued, and I think that is inconsistent with a

1 fiduciary duty.

2 So what do I have? I have a debtor that is
3 potentially part of what may become a web of a number
4 of related cases. We don't know, we'll see where that
5 goes. But in the meantime, a number of related
6 entities where the debtor's principal and the trustee
7 of the trust has testified today that funds have been
8 co-mingled, and that her intention, in fact, was to
9 continue to do so.

10 I think that that poses a risk of
11 substantial harm to the estate on an ongoing basis,
12 and certainly supports the appointment of an interim
13 trustee. And so based solely on that, I would appoint
14 an interim trustee.

15 Based on my admission of Exhibit 2, I have
16 to say that that can only add to the analysis under
17 303(g). It appears to be a credible report that at
18 various times funds are transferred out of accounts
19 that were maintained in connection with the debtor's
20 business in a manner that places a great deal of doubt
21 on whether those were appropriate transfers. There
22 are concerns about the payment of premiums here.

23 I'll address Mr. Elam's, one other argument
24 that you made, Mr. Elam, suggesting that we may not --
25 we don't know whether these particular creditors will

1 pay premiums, and pay in money to allow the debtor to
2 make premium payments, but they didn't the last time
3 apparently, either, but there's no reason for me to
4 believe that in order to protect their investment the
5 same parties who made payment over the last week in
6 order to facilitate premium payment earlier this week
7 would not do the same thing. I think I'd be guessing
8 in either way, but given what I heard in terms of
9 testimony today, I would be concerned about what's
10 going to happen next.

11 So I will direct the United States Trustee
12 to appoint an interim trustee in this particular case.

13 Is there any question before I go on to one
14 last matter? I'm going to address the bond issue
15 next. No questions? All right.

16 If you go and look at the rules, you'll see
17 that Rule 2001, it actually sounds like a command,
18 Rule 2001(b) says that I have to set a bond in an
19 amount approved by the Court, and it's designed to
20 indemnify for potential claims under 303(i), but it
21 doesn't say how much that bond needs to be.

22 In my view, given what I've heard today, and
23 given the fact that there's only one asset, I do not
24 think that -- and the asset is an insurance policy,
25 which apparently is still in play, I do not believe

1 that a bond is necessary in this case. I would
2 require a bond of zero in this particular case.

3 It appears to me extremely unlikely that the
4 debtor is going to be able to effectively oppose an
5 entry for order for relief in this particular case,
6 based solely on the evidence admitted, other than
7 Exhibits 1 and 2, I should point out. It appears that
8 the debtor has, through its principal, admitted a dire
9 financial condition, and might make it very easy for
10 the petitioning creditors to prove their case under
11 Section 303.

12 I do not see how there is any potential for
13 harm to the alleged debtor under the circumstances of
14 this case. I don't see how there could possibly be a
15 claim under Section 330(i). It is extremely unlikely,
16 and therefore a bond of zero is appropriate.

17 Now, the Code is set up to provide that, and
18 I think it's appropriate to say in the order, that if
19 the debtor wishes to reobtain control over its assets,
20 that it can post a bond in order to do so.

21 Based on the limited data I have, I do not
22 know whether there's other assets that were
23 potentially the debtor's assets. I do know there's
24 this one insurance policy and its face value is 10
25 million dollars, and that seems to be undisputed. And

1 therefore, the conditional bond will be 10 million
2 dollars. The debtor may reobtain control over the
3 assets by posting a bond of 10 million dollars, and
4 the order shall so provide.

5 Any questions? All right. Thank you all
6 very much.

7 Yes, Ms. Feinman.

8 MS. FEINMAN: Your Honor, I just am curious,
9 who is going to prepare that order?

10 THE COURT: If you can address the two bond
11 issues, then I'm glad to have you do it. If you would
12 prefer that I do it, I will do it.

13 MS. FEINMAN: I would prefer that the Court
14 do it, because I don't know if you want to put
15 anything else in there.

16 THE COURT: I will do it. I think I would
17 rather do the order then.

18 Mr. Elam, you may not know the answer to
19 this, is the petition going to be contested when it's
20 served?

21 MR. ELAM: I don't know the answer to that,
22 Your Honor.

23 THE COURT: All right. Thank you.

24 MR. GOLD: Thank you, Your Honor.

25 THE COURT: Thank you all very much.

1 I know there was a little bit of levity at
2 the beginning of the hearing, but you should be clear,
3 and I know Mr. Elam knows me well enough, that I did
4 not intend that to reflect poorly on the case.
5 Everybody has done a very good job, particularly Mr.
6 Elam, who had five opponents, four, and had only
7 learned of the matter yesterday.

8 I think given what I've heard today, I would
9 have been very uncomfortable in continuing the matter
10 until next week. I'm putting that as mildly as
11 possible. Very good. Thank you all. Have a good
12 weekend.

13 (The proceedings were concluded.)
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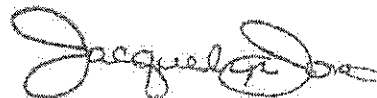
C E R T I F I C A T E

The State of Florida)
County of Palm Beach)

I, JACQUELYN ANN JONES, Court Reporter,
certify that I was authorized to and did
stenographically report the foregoing hearing; and
that the transcript is a true record of my
stenographic notes.

I further certify that I am not a relative,
employee, attorney or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am
I financially interested in the action.

In witness whereof I have hereunto set my
hand and seal this 30th day of August, 2012.



JACQUELYN JONES

Commission DD 846540

Expires Feb 18, 2013