ADMINISTRATIVE PROCEEDING
FILE NO. 3-14700

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	:	
	:	RESPONDENT'S MEMORANDUM OF
GREGORY BARTKO, ESQ.	:	LAW IN RESPONSE TO THE DIVISION
	:	OF ENFORCEMENT'S
	:	MOTION FOR SUMMARY DISPOSTION

I. Overview of the Division's Motion

The Division's Motion seeks to avoid a hearing on the commission's Order Instituting Proceedings ("OIP"), by claiming that Respondent, Gregory Bartko ("Bartko"), should be permanently barred from association with any broker-dealer, investment advisor or other enumerated regulated entities. Motion, Pg. 1, 2 and 17. The Division claims this action would be permissible as a matter of law due to the assertion that because Bartko was convicted on November 18, 2010, there are no genuine issues of fact that remain at issue in this proceeding. The Division also asserts that Bartko is attempting to relitigate issues addressed in his underlying criminal conviction, but as a matter of law is collaterally estopped from doing so. Motion, Pg. 11-13. Various documents are attached to the Motion, all of which consist of public filings made in Bartko's criminal case. Most heavily relied upon in the Division's Motion appears to be a trial court opinion filed on January 17, 2012 in Bartko's criminal case denying four motions for new trial brought by Bartko after his discovery of a series of violations of the principles announced in Brady v. Maryland, 373 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972), and Napue v. Illinois, 360 U.S. 264 (1959). It is fair to say that all four new trial motions in his criminal case are connected by a common thread – prosecutorial misconduct. Motion, Exhibit "C" Pg. 1-2.

The Division consumes a seventeen page brief attaching over 150 pages of court filings from Bartko's criminal case in order to establish that a permanent bar from the securities industry may be granted as a matter of law. Nowhere in the Division's Motion will there be found any legal authority supporting this proposition. Instead, the Division's Motion establishes a principle of law which Bartko does not even dispute, which is that Bartko is collaterally estopped from relitigating his criminal case in this proceeding. Whether or not the Division merely pulled a "canned" brief off its enforcement shelf on the topic of collateral estoppels is unknown. What is clear is that the Division's Motion makes absolutely no reference whatsoever to any aspect of Bartko's Answer to the OIP dated February 14, 2012. The Answer is ignored and the Division then merely rests upon Bartko's conviction. Bartko believes that the Division's approach in its Motion; the simplistic view that Bartko lost his criminal trial so relief following the entry of the OIP is a "slam dunk," is the Division's attempt at making Bartko's defenses to the OIP go away.

II. Bartko's Answer to the OIP

Bartko defends this proceeding in good faith in order to preserve his rights and privileges the Division wishes to take away. If his defense to this proceeding was intended to simply cause unnecessary delay, relitigate issues decided in his criminal case or some other improper purpose, Bartko would probably be better off making a general denial of the allegations in the OIP. As described below, Bartko's Answer and his defenses to the OIP are rational outcroppings of the facts asserted therein.

The assertions of fact in Bartko's Answer must be taken as true in considering the Division's Motion. 17 C.F.R.§201.250(a). There are four evidentiary exceptions to this Rule: (i) stipulations of the parties; (ii) admissions of a party; (iii) uncontested affidavits; and (iv) facts officially noted pursuant to Rule 323. There are no stipulations or uncontested affidavits associated with the Division's Motion. In his Answer, Bartko admits that the Judgment of Conviction attached as Exhibit E to the Motion was entered. But, as affirmatively alleged in Section III of His Answer, "For purposes of this proceeding, Bartko contends that it is necessary and appropriate in the public interest for a determination to be made after a hearing, of the extent to which SEC Enforcement clandestinely and impermissibly commingled the SEC's civil inquiry with AUSA Wheeler's criminal prosecution, as his "Trojan Horse." Before addressing the legal arguments contained in this brief, the Hearing Officer considering the Division's Motion must begin the analysis of whether there are material facts genuinely at issue in this proceeding, by accepting the following factual assertions contained in the Answer as true:

1. Prior to Bartko's indictment on November 4, 2009, SEC Enforcement lawyer J. Alexander Rue ("Rue") and federal prosecutor Clay C. Wheeler ("Wheeler") developed a pre-existing investigatory relationship which turned on Rue's impermissible coordination of SEC civil proceedings with Wheeler's interest in criminal prosecutions of persons the SEC had received investigatory information from. Answer ¶ B (2)(c), (d),(f),(i),(j),(k),(m),(n)-(u).
2. SEC Enforcement staff from the Atlanta Regional office, including Rue and un-named others, engaged in similar collusive investigatory conduct in various criminal prosecutions conducted not only by Wheeler, but of federal prosecutors from other districts. Answer, ¶ B(2)(d),(f),(g),(h).
3. Bartko and Rue were actively involved in the SEC's investigation of a company that ultimately was found to be conducting a Ponzi scheme. ("MBA"). Bartko, acting on behalf of his client, a top salesman for MBA, communicated and met frequently with Rue during the last half of 2004 through April 2005. Rue and Bartko met on March 14, 2005 at Rue's request but did not discuss MBA, rather he made an inquiry of Bartko about Bartko's star-up private equity fund, the Capstone Fund ("Capstone Fund"). Answer, ¶B(2)(b),(i),(j) and (k).
4. Hidden from Bartko by Rue at the March 14, 2005 meeting was Rue's interest in continuing to receive information from Bartko concerning the Capstone Fund and (ii) to prosecute Bartko criminally if false information was provided to the SEC. Answer, ¶B(2)(j) and Exhibit thereto.
5. Continuing to cultivate Bartko's role as counsel for his MBA salesman client, and during the time frame that Rue had already concluded that he would dupe Bartko into further voluntary cooperation with a view towards a criminal prosecution, Rue and Wheeler proceeded to unlawfully seek and obtain information and documents used in Bartko's criminal case under

the guise of "clarifying inquiries" concerning the Capstone Fund. Answer, ¶B(2)(i)-(k), (l)(m).

6. Information and documents acquired from Bartko by Rue concerning the Capstone Fund were obtained as a result of affirmative misrepresentations by Rue; they were thereafter provided to Wheeler and used in Bartko's criminal case. Answer, ¶B(2)(k),(m),(q),(u).
7. Although Rue and Wheeler were aware of Bartko's remedial actions that included a complete disassociation from Bartko's MBA client, a voluntary and transparent return of all investor funds held by the Capstone Fund through a federal interpleader action and a closure of the Capstone Fund, Rue created yet another ruse to extract information from Bartko – the Capstone Partners broker-dealer exam. Answer ¶B(2)(l)-(u).
8. In short, Rue and others in the SEC Regional Office in Atlanta agreed to gather information and documents from Bartko at the behest and use by Wheeler in the criminal case. They went so far as to prepare multi-page report authored by the senior SEC examiner which related, not to the broker-dealer examined, but to the Capstone Fund over which they were not examining. Answer, ¶B(2),(s),(t).

Since all of these alleged facts are true for purposes of the Division's Motion, summary disposition allowing the broadest bar possible as sought by the Division is truly reprehensible.

III. Argument

So this record is clear, the factual assertions contained in the Division's Motion and brief, which it believes supports a permanent industry bar, were hotly contested at Bartko's criminal case. Motion, Pg. 3-8. Bartko testified at length at trial denying any involvement in his former client's investment schemes. The results of Bartko's criminal case are not in dispute in this proceeding. Bartko has consistently maintained his innocence in his criminal case and continues to do so on appeal. This brief and this proceeding is not the proper forum for Bartko to expand on his innocence.

Sprinkled throughout the Motion, the Division argues various reasons why a permanent bar sanction is necessary. Obviously that is the Division's position. Ultimately, after a fair hearing that sanction is one of many that could be imposed. However, there simply is no authority that a permanent bar can be imposed on a respondent as a matter of law. Under the Commission's own standards elucidated in Steadman v. SEC, 603 F. 2d 1126 (5th Cir. 1979), all five of the determinants of what is in the public interest of an SEC administrative proceeding are factual issues – not legal issues. The Division's Motion is similarly sprinkled with comments and innuendo which have nothing to do with the Steadman factors, but have everything to do with the effort by the Division to escape the in pari delecto impact of its staff's own unlawful and unconstitutional activities.

Much as the prosecution did at Bartko's criminal trial, the Division is willing to say virtually anything in order to achieve its aim of securing a permanent bar. But, the coincidence in tactics is not a mere fluke. As anyone can see from the presumptively true facts asserted in Bartko's Answer, the criminal investigation vindictively pursued by AUSA Wheeler that folded into Bartko's role with the Caledonian Fund and the Capstone Fund, was fed by Rue and others on the staff of the SEC Regional Office. At the same time the public interest should be determined in this proceeding, Bartko believes the tricks, misrepresentations and outright fraudulent nature of the contrived Capstone Partners broker-dealer

examination must be weighed as a component of the entire analysis. After all, the SEC staff is subject to oversight just like registered personnel such as Bartko. It's only fair and balanced for the public interest formula to include not only the regulated but the regulator.

The overriding defect in Bartko's criminal case is the same defect in the Division's quest for a permanent bar – government misconduct. A complete legal and factual assessment of how SEC staff misconduct should factor in to the public's interest in sanctioning Bartko is sorely limited because of virtually no legal research capabilities at Bartko's disposal. Moreover, due to Bartko's "in transit" status as identified in the Division's Opposition to Respondent's Motion for Stay of Administrative Proceedings, case materials available to Bartko are also "in transit."

Nevertheless, most of us know what misconduct is when we see it and surely recognize it when we're subjected to it. Rue's misleading tactics in duping Bartko into voluntary cooperation as the "Trojan Horse" for Wheeler's prosecution violates constitutional principles the government must adhere to. His actions were not merely one of omission by failing to disclose to Bartko and his counsel that his SEC inquiry was a subterfuge for a criminal investigation. Rue made affirmative misrepresentations to Bartko's counsel with respect to the legitimacy of a broker-dealer examination. Rue also made affirmative misrepresentations to the effect that what Bartko voluntarily provided to him would remain confidential with the Commission. The Capstone fund's confidential treatment request stamp, along with counsel's specific confidential treatment request conditions in each transmittal letter to Rue, makes it clear that Bartko's voluntary disclosures were made in reliance on Rue not funneling the materials to any third- parties; especially third-parties that necessitated the deception. Bartko attaches to this brief as Exhibit A a copy of one such transmittal letter that memorialized the confidentiality conditions.

SEC Enforcement staff is trained to respect the constitutional limitations of "parallel proceedings." Rue in particular being veteran staff enforcement lawyer is presumably well aware of the line between appropriate parallel proceedings and an SEC inquiry that in reality is a de facto criminal investigation. When a SEC civil proceeding gets to the point where it clandestinely impacts constitutional protections of an unsuspecting criminal target, the non-criminal proceeding must yield. SEC v. Dresser Industries, Inc., 628 F.2d 1368 (D.C. Cir 1980). It was incumbent on Rue and the SEC examiner staff to ensure that their inquiry of Bartko and the Capstone Fund was not used as a "Trojan Horse" for a parallel criminal investigation, which in Bartko's case it was. See Hilder, Philip & Creech, Paul, Texas Medicaid Fraud Control Unit, A Trojan Horse, http://hilderlaw.com/publications; United States v. Scrushy, 366 F. Supp. 2d 1134 (N.D. Ala. 2005); Sterling Nat. Bank v. A-1 Hotels Intern., Inc., 175 F. supp. 2d 573 (S.D.N.Y. 2001).

Until late 2008, Bartko had no knowledge of any criminal or civil investigation being conducted by AUSA Wheeler or Rue. In fact, Bartko again was misled to believe just the opposite by Rue's many discussions with Bartko's counsel between April 2005 and August 2005. It was during that time that Rue was regularly apprised of the wind-down and return of investor funds that was initiated voluntarily through Bartko's federal interpleader action. Rue at one point even suggested that perhaps the Commission could in some way assist in a redistribution of investor funds held by the Capstone Fund, negating any concern by Bartko and his counsel that Rue was acting as a Trojan Horse for federal prosecutors. As was so aptly found in United States v. Scrushy, supra, "When a target is aware that an

investigation has targeted him, he can take actions to prevent the providing of information in the civil proceeding that could later be used against him in a criminal case. When the target does not know about a criminal investigation, the danger of prejudice increases." Such is the situation here with the misconduct of SEC Enforcement in tandem with AUSA Wheeler's efforts to prosecute Bartko.

Bartko anticipates that the Division may elect to simply deny its unsavory role in Wheeler's criminal investigation of Bartko, or take the position that Rue's misconduct is irrelevant to the present proceedings. After all, Bartko lost at trial. He was convicted. Even if there were improper, collusive activities by government lawyers that enabled the indictment and conviction of Bartko, the Division will undoubtedly say "so what." This approach is shortsighted since what it really would be saying is if the government misconduct is clever enough, pernicious enough and avoids detection until the target is convicted, then the government is home free. Bartko submits that is precisely what took place prior to his indictment, through trial, through post-trial motions and through sentencing. The Division's Motion, which seeks relief without a fair hearing, is its most recent attempt to leverage off a wrongful conviction. As explained at the end of this brief, in light of Bartko's suggested disposition of the Motion, the Division's blind pursuit of a permanent bar from the industry is nothing more than punitive and government abuse run amok.

It is interesting to note, and the Hearing Officer should take official notice pursuant to Rule 323, that SEC Enforcement staff from the Atlanta Regional Office have a history of engaging in similar collusive investigations. For example, in Scrushy, supra, at an early stage in the SEC's investigation of Health South, federal prosecutors during a telephone call with the SEC staff, directed the SEC accountant conducting the SEC's investigation to ask Scrushy certain questions during his SEC deposition. Id. at 1136-1137. Although Scrushy's deposition had been scheduled to take place in Atlanta, GA., the federal prosecutors also requested that the location be changed to Birmingham, Ala. So that if Scrushy failed to tell the truth, "he would be lying in our district." Id. At 1135-1136. Rue's skullduggery with Bartko can hardly be clearer than that which is stated in the exhibit to Bartko's Answer. The Scrushy case is not an aberration for the SEC Atlanta Regional Office. The same improper, collusive conduct between SEC Enforcement lawyers and federal prosecutors was present in United States v. Edwards, 526 F.3d 747, 759 N. 36 (11th Cir. 2008), although there , Edwards failed to show actual collusion and denial of his constitutional rights. (See also United States v. Barry C. Maloney, E.D.N.C. Case No. 07-CR-117-3-BR, D.E. 189). The Maloney prosecution included the same participants, i.e. Rue and AUSA Wheeler. The improper conduct which occurred with respect to Bartko's criminal investigation was not aberrational. The proven fact of prior similar occurrences of misconduct, in some occasions by the same SEC Enforcement staff and the same federal prosecutor is reprehensible. The manner that the Commission and the Department of Justice have reacted to these abuses surely rises to the level of willful blindness to the consequences – unfair and wrongful criminal convictions. Bartko's argument made here may admittedly not be considered as a collateral attack on his conviction, but must be considered in the total mix of information presented to the Hearing Officer in this proceeding. It is <u>always</u> in the public interest to consider government misconduct that result in the deprivation of one's freedom, one's property rights, and ones' privileges. In this proceeding, the Division seeks to permanently revoke a privilege held by Bartko under color of government misconduct. <u>None</u> of these factual or legal issues have ever been litigated in any other proceeding. That is the Division's goal here as well.

Summary disposition on the Division's Motion is not appropriate when there are genuine issues of material fact at issue which are in dispute. The factual issues? A result that is in the public interest. By example, and not an exhaustive analysis, of just a small portion of the misleading conduct of Rue as he gathered information from Bartko on behalf of federal prosecutors, is the nature of Rue's communications with Bartko. Based on Rue's testimony at Bartko's trial, the very first conversation regarding the Capstone Fund the two of them had was in a brief meeting on March 14, 2005. Motion, Exhibit C, Pg. 66-67. Every communication between Rue and Bartko prior to March 14, 2005 related solely to Bartko's efforts with Rue to settle the impending SEC enforcement action against Bartko's client, Hollenbeck. Motion, Exhibit C, Pg 60-69. At least as early as March 1, 2005, Rue was conducting a de facto criminal investigation for AUSA Wheeler's use. According to Rue's own trial testimony, he received various sales materials on February 24, 2005 from an investigator in the North Carolina Securities Division. Rue was concerned about these sale materials because they appeared to include many of the same fraudulent sales materials that Bartko's client had previously used in his own fraud schemes. Id. Pg. 62-63. As of March 1, 2005 at the latest, Rue's informal inquiry concerning Bartko's Capstone Fund morphed into a criminal inquiry. Knowing that Rue was angling to have Bartko prosecuted criminally and that the SEC has no criminal authority, a reasonable conclusion can be drawn that Rue purposely continued to mislead Bartko after the March 14, 2005 meeting between the two. All of Rue's communications and requests made after the March 14, 2005 meeting with Bartko continued to be couched as Rue's continuing efforts to get his hands around Hollenbeck's continuing fraudulent activities – not in any way revealing the shift in Rue's investigatory focus to Bartko for criminal purposes. See Exhibit B attached hereto consisting of Rue's "declared" continuing interest in MBA and Hollenbeck. Reviewing these communications, one can see that Rue's deception worked as Bartko continued to provide mountains of documents to him that revealed the details of the extent to which Hollenbeck and his partner, John Colvin, effectively raised over $30.0 million by Hollenbeck's fraudulent sales techniques. Bartko was open and transparent in his efforts to resolve Hollenbeck's Wells Notice issues. Rue was not. Bartko was aware that there was a risk of prosecution of his client, Hollenbeck and that risk was thoroughly discussed with Hollenbeck. Surely, a reasonable inference can be drawn that between February 24, 2005 and the broker-dealer examination of Capstone Partner's in July 2005, Rue was engaged in a de facto criminal investigation using nominally civil means. Such an inference is not only reasonable, it was confirmed following Rue's request that the SEC broker-dealer examination staff conduct a pre-textual "spot" examination of Bartko's broker-dealer. See infra.

Emblematic of the lengths to which some of the SEC staff in the Atlanta Regional Office have created fiction from whole cloth is the misleading testimony of SEC broker-dealer examiner David McLellan at Bartko's criminal trial. Based primarily on information "created" by Rue and McLennan, AUSA Wheeler included in Bartko's superseding indictment a count alleging that Bartko conspired to make false statements to the SEC and to obstruct SEC proceedings, to wit: the Capstone Partners, LC broker-dealer exam. Motion, Exhibit A, Pg. 2, 4-5 and 9-10. The prosecutors ultimately dismissed this aspect of the superseding indictment one business day before trial. Id., Exhibit B. Nevertheless, McLellan testified that Bartko failed to give him access to information associated with the Caledonian Fund and that Bartko sought to mislead McLellan by telling him that his partner, Laws, was the managing member of Caledonian. Id. Exhibit C. Pg. 73-74. Ultimately, McLellan's testimony proved to be some sort of "payback" to Bartko as McLellan finally admitted later in his testimony that Bartko had given him everything he asked for. In fact, as early as March 24, 2005, Bartko specifically delivered to Rue a

compilation of Caledonian Partners documentation which thoroughly disclosed all information about the Caledonian Fund. See Exhibit C, Pg. 2 hereto. It is noteworthy that Bartko specifically advised Rue at that time that he was one of the managing members of Caledonian; and that many of the other documents relating to the Caledonian Fund reflect the identity of Laws and Bartko as the managing members. How can it be then that the SEC's McLellan testified truthfully at Bartko's trial that he denied being one of the managing members? Motion, Exhibit C. Pg. 73. See also, Exhibit D hereto consisting of Bartko's transmittal letters to McLellan dated June 29, 2005, July 1, 2005, July 6, 2005 and August 9, 2005.

Capstone Partners, LC Broker-dealer Examination

If there was any doubt what the Atlanta SEC Enforcement staff was up to, with the clarity of hindsight, the circumstances giving rise to the examination reveal egregious SEC staff misconduct. Since we now know what the SEC staff was up to and why before the broker-dealer exam commenced, and since we know that virtually all of the information and documents obtained by Rue and McLellan concerning the Caledonian and Capstone Funds were funneled to AUSA Wheeler for use in Bartko's and Law's criminal prosecution, a strong inference arises that again, the broker-dealer exam was actually a de facto criminal investigation. The facts alleged by Bartko in support of this conclusion are set forth in the Answer, Section B (2)(n)-(u). Those facts are deemed to be true for purposes of the Division's Motion.

The harm associated with the SEC's deception orchestrated by Rue and McLellan in contriving a broker-dealer examination as a pretext for a criminal investigation of Bartko is obvious. "Whether a parallel investigation is legitimate or improper turns on the determining principle that the prosecution may use evidence acquired in a civil action in a subsequent criminal proceeding unless the defendant demonstrates that such use would violate his constitutional rights or depart from the proper administration of criminal justice." Scrushy, supra at 1138 (citing Unites States v. Teyibo, 877 F. Supp. 846 (S.D.N.Y. 1995). The danger of prejudice to the defendant is much greater where a defendant does not know he is the target of a criminal investigation. Such is the case with Bartko and the broker-dealer examination. See also United States v. Kordel, 397 U.S. 1 (1970). Bartko didn't know of Rue's and McLellan's true purpose of the examination because Rue lied to Bartko's counsel by telling his counsel that he (Rue) had nothing to do with the coincidence of the exam. Rue said it was a regular "spot" examination scheduled by the broker-dealer examination staff – not initiated by Rue. Under United States v. Kordel, Id. This was misconduct in its purest sense.

More recently, the propriety of a criminal conviction arising from information obtained by the government through the pretext of a legitimate civil inquiry, was questioned in United States v. Posada-Carriles, 541 F. 3d 344 (5th Cir. 2008). In Posada-Carriles, a federal district court dismissed an indictment based on findings that the government engaged in deceptive conduct and outrageous tactics during naturalization proceedings. The Fifth Circuit ultimately reversed the dismissal, not based upon any novel interpretation of Unites States v. Kordel, supra, but because in Posada-Carriles there was no affirmative misrepresentations about the nature of the civil inquiry. In that decision, the Fifth Circuit relied heavily on its earlier decision in United States v. Tweel, 550 F. 2d 297 (5th Cir. 1997). In Tweel, improper government conduct occurred when the IRS initiated a tax audit at the request of the Organized Crime and Racketeering Section of the Department of Justice as a part of a criminal investigation. Tweel appealed his criminal conviction due to the fact that the IRS agent intentionally misled him about the

nature of the inquiry, with the appeals court calling the investigation a 'sneaky, deliberate deception by the agent." See also SEC v. ESM Gov't Sec. Inc., 645 F. 2d 310, 311-12, 317 (5th Cir. 1981), holding that government deception is grounds for denying an administrative subpoena where an SEC investigator failed to disclosed the existence of an investigation and instead obtained access to the company records under the guise of obtaining "education" for himself. Accord, United States v. Blocker, 104 F. 3d 720, 729-30 (5th Cir. 1997): United States v. Powell 835 F. 2d 1095, 1099 (5th Cir. 1988); United States v. Caldwell, 820 F. 2d 1395, 1400 (5th Cir. 1987). All of these cases stand for the same proposition, which is that government deception and outrageous conduct by agency representatives, who affirmatively trick or deceive targets of a criminal investigation by means of conducting civil proceedings, cross the line. And so it should be. Constitutional violations of these principles in a criminal prosecution are remedied by suppression of the evidence prosecutors obtained in the civil proceeding or in egregious cases, by dismissal of criminal charges. Of course, neither of those remedies are available in this proceeding. Even so, such improper conduct by Rue, McLellan, and Bartko's prosecutors is not a wrong without a remedy.

In line of Supreme Court decisions following Brady v. Maryland, supra, Strickler v. Greene, 527 U.S. 263 (1999), United States v. Bagley, 473 U.S. 667 (1989) and Giglio v United States, 405 U.S. 150 (1972), make it pretty clear that a federal prosecutor becomes "constitutionally responsible" for law enforcement and agency investigators that participate in a criminal investigation. Such responsibility is relevant in a criminal setting. In this proceeding, the deceit and governmental misconduct visited upon Bartko by the Commission's own authorized representatives must be considered by the Hearing Officer in the ultimate determination of this case. Any other result will be a whitewash of SEC Enforcement's conduct.

A Permanent Bar of Bartko is Not in the Public Interest

In the Division's haste to crucify Bartko where his prosecutors left off, it has either avoided or missed the entire point of why Bartko opposes this administrative proceeding so vehemently. Initially, on August 22, 2011, Bartko's criminal defense counsel received correspondence and an Offer of Settlement in lieu of instituting proceedings. The Offer of Settlement was propounded by Penny J. Morgan, Senior Counsel in the SEC's Atlanta Regional Office. Bartko reviewed the Offer of Settlement, made some suggested revisions to the document and returned it with an explanatory letter dated August 18, 2011. Bartko's substantive opposition to the Offer of Settlement is found in Section VI (B) of Exhibit E attached hereto, which is a copy of Bartko's suggested revisions and Ms. Morgan's response directed to Bartko's criminal counsel. This entire proceeding became necessary due to the Division's recalcitrance in including a reinstatement of Bartko's broker-dealer agent and investment adviser registration following any reversal or vacatur of his criminal conviction on appeal. Why would the Division oppose such a reinstatement – no one knows. Bartko has constantly maintained his innocence, believes the jury's verdict was the product of his prosecutor's misconduct in violating long standing constitutional principles, and will contend on appeal that the trial court's January 17, 2012 opinion is flawed in several material respects. In the event Bartko's conviction is vacated, as a matter of law he will be innocent of the criminal charges in the superseding indictment. Bartko's spotless disciplinary record as a lawyer and a registered securities representative will no longer be tarnished by the government's chicanery. Why shouldn't his licensing privileges be restored with the Commission?

It would make fare more sense for the Division to seek a suspension on Bartko's registration for a period not exceeding twelve months. This is permissible under Section 15 (b)(6)(A) of the Securities Exchange Act of 1934 and Section 203 (f) of the Investment Advisor's Act. Bartko's Fourth Circuit appeal was docketed on April 13, 2012. A reasonable estimate of the appeal processing time is twelve months. Rather than pursuing a permanent bar from the industry while Bartko's appeals are pending, the public interest would be far better served by a less permanent, less draconian sanction than the Division seeks.

Conclusion and the Division's Failure to Product Documents

Bartko agrees that it serves no useful purpose to rebut the Division's factual statements in its motion to the extent those factual findings are implicitly a part of the jury's verdict or the trial court's January 17, 2012 order. Bartko disagrees, however, with those findings and must now simply wait patiently while the appeal process progresses. For purposes of this administrative proceeding, and for a determination of what is in the public interest vis-à-vis sanctions, the following is also relevant conduct by the SEC Enforcement staff:

> The Division, like Bartko's prosecutors, continually and knowingly rely upon false and misleading statements of fact that were made by AUSA Wheeler in Bartko's criminal case. It is fair game for the Division to rely on facts established in his criminal case, but reliance on false and misleading statements by AUSA Wheeler just proves Bartko's overall thesis of this brief, which is the government lawyers involved in misconduct have no interest in admitting or correcting it. Their only interest is to preserve a conviction at any cost, leverage off that conviction so that Bartko "can not commit fraud while incarcerated," all the while claiming it's in the public interest. Division counsel in this proceeding is obviously unfamiliar with federal detention facilities if that is of true concern.
>
> The Division's Motion relies on a transcript of Bartko's post-verdict hearing conducted on November 18, 2011 in his criminal trial. Motion, Exhibit F. What the Division's Motions does not say is that the factual proffers made by AUSA Wheeler during that hearing were subsequently admitted by AUSA Bragdon to be false. Response to Defendant's Motion for New Trial Based on Discovery of Proffer Agreements, (D.E. 220, n.1 and 2). Like Bartko's federal prosecutors, the Division's Motion continually falls back on the worn out theme that Bartko misled judges, wrote "CYA" letters or made misleading statements in his federal interpleader action used to return investor funds. Even a cursory look at the federal interpleader complaint misrepresented by AUSA Wheeler at the above referenced hearing reveals AUSA Wheeler's statements to be misleading. The same holds true for the Division's references to the interpleader complaint. See Exhibit F attached hereto, ¶¶ 5,7,8,13,14,35-38. Bartko, in his 30 years of legal private practice, has never before seen such a malignant effort by the government's legal counsel to hide, distort and deceive.
>
> Such misconduct is exacerbated by the Division's refusal to product documents in this proceeding as required by Rule 230. The Division knows there are documents and materials in its possession that would be favorable to Bartko on the question of what is in the public interest in this proceeding. Brady v. Maryland, supra. Some documents were provided to Bartko's criminal counsel in response to the issuance of a subpoena in his criminal case. Attached hereto as Exhibit

G is a transmittal letter from the Commission's Office of General Counsel dated March 29, 2012 responding to Bartko's subpoena. The first sentence of Exhibit G is false. The documents produced by Ms. Jacoby with her transmittal letter did not include the "secret" investigatory report authored by David McLellan following his review of the Caledonian and Capstone Fund as a pretest of the broker-dealer examination. Bartko has no access to this report, but recalls that its contents clearly support the factual assertions contained in his Answer. It is material required to be provided to Bartko under Brady v. Maryland. Its non-production cannot be deemed to be harmless error. The fact that the Division excludes any reference to this document implies rather strongly its materiality in this proceeding.

The Division's Motion should be denied. The issue of what is in the public interest in this case requires a hearing and a presentation of factual matters genuinely in dispute. Aside from the factual claims and counter-claims of federal prosecutors, the Division, and by Bartko, there is one indisputable truth relevant to this proceeding. That is that in order to prosecute Bartko, the government hitched its wagon to Hollenbeck, an admitted fraudster and liar. Hollenbeck unquestionably was the architect of a series of investment fraud schemes beginning as early as 1999 and continuing through April 2005. He single handedly raised between $25.0 and $30.0 million during that period from approximately 400 victims. Bartko on the other hand is responsible for the recovery and return back to Hollenbeck's victims something just shy of $25.0 million. As shown on Exhibit H attached hereto, which was prepared by the SEC broker-dealer examination staff, $3,340,298 of Capstone Fund investments were returned to 25 investors. The gross amount of recovery successfully recovered in the Bull Mountain Coal Mine receivership was a little over $21.6 million. The amount recovered by SEC Enforcement for any of Hollenbeck's frauds? Zero.

Dated this 3rd day of May, 2012.

Respectfully Submitted,

By: Gregory Bartko per

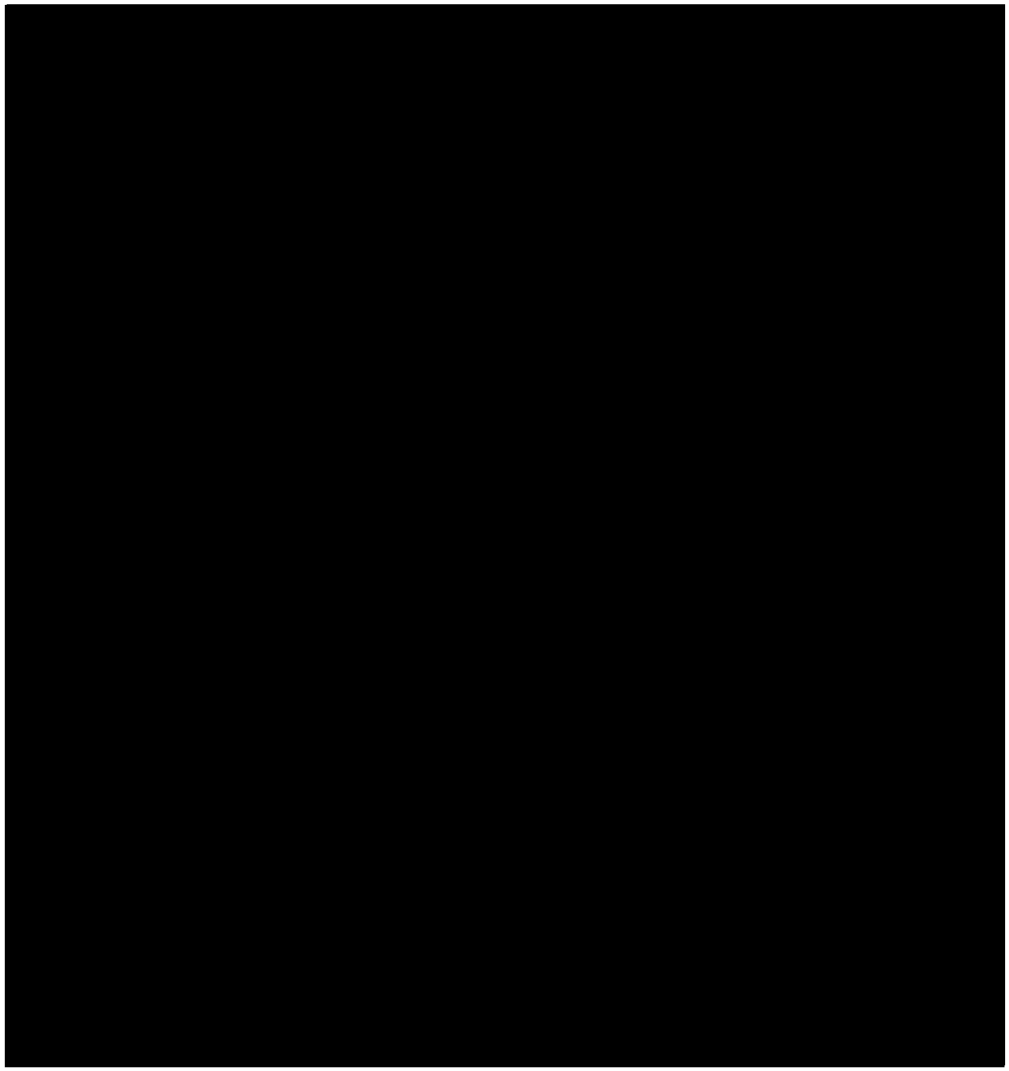
Gregory Bartko, Respondent

List of Respondent's Exhibits

Exhibit	Description
A	Transmittal Letter
B	Rue Communications
C	March 24, 2005 Letter
D	McLellan Transmittal letters
E	Offer of Settlement
F	Interpleader Complaint
G	Jacoby letter
H	SEC Schedule of Investors

[redacted]

[redacted]



EXH A

Rue, James A.

From: Rue, James A.
Sent: Tuesday, February 22, 2005 2:28 PM
To: [redacted]
Subject: [redacted]

bartko022205.pdf

Greg: Please see the attached letter.

Alex Rue
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
ATLANTA DISTRICT OFFICE
3475 LENOX ROAD, N.E.
SUITE 1000
ATLANTA, GEORGIA 30326-1232

February 22, 2005

Gregory Bartko, Esq.
Suite 400
3475 Lenox Road
Atlanta, GA 30326

Re: SEC v. Mobile Billboards, et al.

Dear Greg:

I have briefly reviewed the materials you provided in your February 9, 2005 letter documenting the payments Mr. Hollenbeck has made to his victims.

Following up on my earlier discussions and conversations with you, in addition to the material Mr. Hollenbeck has provided, we will need the following information before we can make any recommendation to the Commission to accept a settlement from Mr. Hollenbeck:

(1) The source of any "finder's fees and commissions" Mr. Hollenbeck has received from any other source than Mobile Billboards, paid either through the Webb Group or from any other source.

(2) Mr. Hollenbeck's current sources of income, including a detailed description of any product Mr. Hollenbeck has sold (or is currently selling) and the amount of income from his sales of any such product;

(3) Details concerning what Mr. Hollenbeck described as the "private equity fund," including the promotional materials Mr. Hollenbeck used to sell the fund, the disposition of the funds raised, the names, contact information and amount invested by each investor and the commissions Mr. Hollenbeck was paid;

EXH B

(4) Income and financial statements for the Webb Group from inception through the present as well as the identity of anyone holding an ownership interest in the Webb Group other than Mr. Hollenbeck;

(5) The identity of the third-party borrower who repaid the Webb Group in 2004, the total amount repaid and the date of repayment; and

(6) The identity of any other borrower indebted to the Webb Group and the amount of any such indebtedness.

While we would certainly like to see this matter resolved through a settlement, as I have told you several times, we simply cannot make any settlement recommendation with regard to Mr. Hollenbeck without a complete understanding of Mr. Hollenbeck's financial affairs and his past and current business activities.

Please telephone me if you would like to discuss this matter or have any questions regarding the information we need. Perhaps the easiest way to provide this information would be for Mr. Hollenbeck to provide the relevant financial information and then submit to an on-the-record interview to answer our remaining questions. Such an interview would be confidential and would not be attended by anyone other than the staff, Mr. Hollenbeck and his attorneys.

Please let me know how you wish to proceed. You may reach me at 404 842-7616.

Very truly yours,

/s/

Alex Rue
Senior Trial Counsel

Rue, James A.

From: Rue, James A
Sent: Monday, February 14, 2005 8:15 PM
To: [redacted]
Subject: Re: MBA vs. Mobile Billboards

I am out of the country and will discuss your request with my colleagues when I return, although my initial reaction is that we will not provide an affidavit. As I recall the telephone conversation, David did raise questions regarding the issues he has raised in the receiver's filing. Moreover, at the time of the call, we did not know that Hollenbeck's victims had not been told that Hollenbeck was filing a lawsuit naming them as plaintiff's without their knowledge or consent.

I will be back in the office next week. I expect you will have information for me by that time. We are going to need to have the details concerning the Franklin Private Equity fund. Mr. Hollenbeck testified that he had raised $21 million in that fund. Who did he raise that money from? What did he tell those people? Where did that money go? Has he stopped raising money for the fund? Is he selling anything else now? Where is the church money invested? We cannot recommend any settlement with your client if he is engaged in ongoing violations of the law.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To:
Cc:
Sent: Thu Feb 10 16:25:18 2005
Subject: MBA vs. Mobile Billboards

Alex

We of course have received and reviewed the recent Motion filed by David Dantzler on behalf of the Receiver. Reference is made to paragraph 27 of the Motion which relates to the call that the 4 of us had before we filed our NC complaint.

The call was actually made on October 27, 2004 based on our billing records and it included me, you, David and Wes. During that call, it is our recollection that although you may have questioned the wisdom of filing the NC lawsuit, the SEC did not object so long as we did not include the Receiver Entities which you pointed out was prohibited by the existing order. I believe that was David's tack too.

I would like an affidavit from you that we would append to our response that would indicate the content of the call. We are not seeking to draw swords between the SEC and the Receiver, but it is clear that no one contested our filing of the complaint, especially in light of the statute of limitations concern. We even delivered via email courtesy copies of the original complaint filed November 1, 2004.

Are you able and willing?

Gregory Bartko, Esq.

EXH B

I will check with Wes, but I am not personally in favor of continuing any statements under the current environment, which seems to us to be a witch hunt by the Receiver?

Will you sign my petition for admission tomorrow?

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
Mobile: 404-272-6855

----- Original Message -----
From: Rue, James A.
To: [redacted]
Sent: Tuesday, February 22, 2005 2:28 PM
Subject: Scott Hollenbeck

Greg: Please see the attached letter. <<bartko022205.pdf>>

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

2

Rue, James A.

From: [redacted]
Sent:
To:
Cc:
Subject: Re: Scott Hollenbeck

Alex

Your letter is received. We will cover these issues with Mr. Hollenbeck and supply the Commission with the requested information. Early next week is my best guess of being able to get it to you.

I will check with Wes, but I am not personally in favor of continuing any statements under the current environment, which seems to us to be a witch hunt by the Receiver?

Will you sign my petition for admission tomorrow?

Gregory Bartko, Esq
Law Office of Gregory Bartko
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Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

----- Original Message -----
From: Rue, James A.
To: [redacted]
Sent: Tuesday, February 22, 2005 2:28 PM
Subject: Scott Hollenbeck

Greg: Please see the attached letter. <<bartko022205.pdf>>

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

1

EXH B

Rue, James A.

From: [redacted]
Sent: Friday, February 25, 2005 2:07 PM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex

Just back in my office after being in Miami two days.

Can we meet on Hollenbeck's matters on Monday, 2/28/05? We believe we have put together a plan that makes sense for Scott that will enable us to enter into a final order with you that would include partial disgorgement and begin an orderly wind down and liquidation of all of the affairs of The Webb Group and Franklin Asset Exchange. I should have the plan done by Monday, but if not, we can just talk about it. Obviously that means that no continuing offering violations.

I think we need a couple of hours.

Let me know

Thanks

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

Rue, James A.

From: Rue, James A.
Sent: Tuesday, February 22, 2005 3:37 PM
To: [redacted]
Subject: RE: Scott Hollenbeck

I would prefer not to sign your petition but will if you cannot find anyone else.

With regard to any statement, this would be a voluntary sworn statement, akin to investigative testimony, and would not involve the receiver or any opposing counsel whatsoever. We can defer consideration of the issue until we get the other information we have requested. However, depending on the information Mr. Hollenbeck provides, we may need to insist on speaking with him directly.

I disagree with your characterization of the receiver's actions. The receiver is an officer of the court and is appointed for the purpose of maximizing the recovery to investors.

I have attached the Commission's form 1662 which we give to all investigative witnesses. It explains how we may use any information supplied to us including a voluntary sworn statement.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Tuesday, February 22, 2005 2:42 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

Your letter is received. We will confer these issues with Mr. Hollenbeck and supply the Commission with the requested information. Early next week is my best guess of being able to get it to you.

EXH B

Rue, James A.

From: [redacted]
Sent: Monday, March 07, 2005 3:42 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: [illegible]

Alex

We are working now to prepare full responses to your 2/22/05 letter requesting additional information. I have the letter done, but need a day or so to compile the supporting materials. I am only here this week thru end of business on Wednesday and will be sure to deliver our supplementary materials to you before then. I also have preliminary materials on the accounting for Webb and Franklin, but need time to review and revise that. As you perhaps know by now, a full demand for rescission has been made for all direct investments made by our client's customers in the Disciples Trust, LLC (solely managed by John Colvin)

Gregory Bartko, Esq
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

Rue, James A.

From: Rue, James A.
Sent: Monday, February 28, 2005 1:26 PM
To: 'Gregory Bartko, Esq'
Subject: Are we still on for 2pm?

Call me when you're ready.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

EXH B

Rue, James A.

From: Rue, James A.
Sent: Friday, February 25, 2005 2:50 PM
To: [redacted]
Subject: RE: Scott Hollenbeck

I'll see you at 2 Monday.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Friday, February 25, 2005 2:12 PM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

2:00 to 4:00 p.m.

OK...that gives me some time to polish some details I want to discuss with you relating to Hollenbeck.

gab

---- Original Message ----
From: Rue, James A.
To: [redacted]
Sent: Friday, February 25, 2005 2:08 PM
Subject: RE: Scott Hollenbeck

I am free all day Monday, at least after 10 am.

What time would you like to meet?

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Friday, February 25, 2005 2:07 PM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex

Just back in my office after being in Miami two days.

Can we meet on Hollenbeck's matters on Monday 2/28/05? We believe we have put together a plan that makes sense for Scott that will enable us to enter into a final order with you that would include partial disgorgement and begin an orderly wind down and liquidation of all of the affairs of The Webb Group and Franklin Asset Exchange. I should have the plan done by Monday, but if not, we can just talk about it. Obviously that means that no continuing offering violations.

I think we need a couple of hours.

Let me know.

Thanks.

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0650
Fax: 404-238-0651
Mobile: 404-272-6855

EXH B

on the accounting for Webb and Franklin, but need time to review and revise that. As you perhaps know by now, a full demand for rescission has been made for all direct investments made by our client's customers in the Disciples Trust, LLC (solely managed by John Colvin).

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone 404-238-0550
Fax 404-238-0551
[redacted]

Rue, James A.

From: [redacted]
Sent: Thursday, March 10, 2005 10:37 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex, what is the topic of discussion? Are we going to try to wrap the Hollenbeck saga?

gb

----- Original Message -----
From: Rue, James A.
To: [redacted]
Sent: Thursday, March 10, 2005 9:46 AM
Subject: RE: Scott Hollenbeck

Greg: I got your package yesterday and will review it today. I would like to talk with you Monday afternoon. Can you do that? What time would be good for you?

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Monday, March 07, 2005 3:42 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

We are working now to prepare full responses to your 2/22/05 letter requesting additional information. I have the letter done, but need a day or so to compile the supporting materials. I am only here this week thru end of business on Wednesday and will be sure to deliver our supplementary materials to you before then. I also have preliminary materials on the accounting for Webb and Franklin, but need time to review and revise that. As you perhaps know by now, a full demand for rescission has been made for all direct investments made by our client's customers in the Disciples Trust, LLC (solely managed by John Colvin).

EXH B

Rue, James A.

From: Rue, James A
Sent: Thursday, March 10, 2005 11:51 AM
To: [redacted]
Subject: RE: Scott Hollenbeck

2 pm would work for me.

I haven't read the package carefully yet, but I have serious concern about the sales into the private equity fund that were made on December 23, 2004. These sales ($300,000+) took place after his deposition. We need to talk about these sales and exactly what you mean by Hollenbeck 'referring selected customers to others that offer or provide investment products or services." Based on that, it appears that Hollenbeck may be doing the same thing he did with Colvin and the Disciples Trust.

We also have some issues to clarify regarding the Disciples fund and specifically Hollenbeck's role in 'referring' investors in that fund to Colvin. Were any sales materials used for that investment? Mr. Covington's letter claims that the Disciples offering was fraudulent. We would like to know the basis for that claim.

In addition, we need to clarify how the repayment of the loan that the private equity fund made to Jenco could be used to make monthly rental payments to Hollenbeck's MBA investors.

While we would like to negotiate a settlement with Mr. Hollenbeck, our settlement discussions with him have led us to two other fraudulent offerings. We need to investigate those offerings and Mr. Hollenbeck's other activities before we get to the question of how to settle with him. We are pleased that Mr. Hollenbeck has cooperated in providing the information we have gotten so far and hope he will continue to do so. But it would appear that Mr. Hollenbeck has also been paid commissions in excess of $1.2 million from the other two schemes and likely used some of those funds to repay investors in MBA. As I have told you several times, we cannot give Hollenbeck credit against his disgorgement obligation if he is making these repayments from commissions he received in other fraudulent activities, which it appears he has done.

We need to have a frank discussion about what now appears to be in excess of $30 million of fraudulent sales Mr. Hollenbeck has made over the last several years and how to resolve the entire situation.

Please let me know if 2 pm Monday works for you. I am leaving the office today with a miserable cold but will check my email.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Thursday, March 10, 2005 10:37 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex, ...what is the topic of discussion? Are we going to try to wrap the Hollenbeck saga?

gb

---- Original Message ----
From: Rue, James A.
To: [redacted]
Sent: Thursday, March 10, 2005 9:45 AM
Subject: RE: Scott Hollenbeck

Greg: I got your package yesterday and will review is today. I would like to talk with you Monday afternoon. Can you do that? What time would be good for you?

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Monday, March 07, 2005 1:42 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

We are working now to prepare full responses to your 2/22/05 letter requesting additional information. I have the letter done, but need a day or so to compile the supporting materials. I am only here this week thru end of business on Wednesday and will be sure to deliver our supplementary materials to you before then. I also have preliminary materials

EXH B

3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

Rue, James A.

From: [redacted]
Sent: Monday, March 14, 2005 8:51 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alan

I have an unexpected "daddy duty" today between 2-end of day.

Can we meet at 11:00 this morning?

Please advise

Gregory Bartko, Esq
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

EXH B

Rue, James A.

From: [redacted]
Sent: Tuesday, March 15, 2005 11:03 AM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

After yesterday's meeting with you, Wes and I had two very sobering phone conversations with our client. It is clear at our end that the SEC can not effectively assist us in bringing closure to the MBA (and offspring) matters until some assurances can be given to you that our client is not in any way, shape or form, engaged in securities or investment-related activities.

What form can that assurance take?

Do you want a letter from us as counsel or do you want something directly from Scott or perhaps we should entertain a temporary or permanent injunctive order?

As you can see, we are certainly interested in bringing this to a close as best we can. I spoke to the consulting firm doing the Webb and Franklin accounting analysis last nite. The process is taking longer than they would like, but it is proceeding.

Gregory Bartko, Esq
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone 404-235-0560
Fax: 404-238-0561
[redacted]

Rue, James A.

From: [redacted]
Sent: Monday, March 14, 2005 10:20 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

I will see you then.

gb

----- Original Message -----
From: Rue, James A.
To: [redacted]
Sent: Monday, March 14, 2005 9:28 AM
Subject: RE: Scott Hollenbeck

11 will work

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Monday, March 14, 2005 7:51 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex

I have an unexpected "daddy duty" today between 2-end of day

Can we meet at 11:00 this morning?

Please advise.

Gregory Bartko, Esq
Law Office of Gregory Bartko

EXH B

Rue, James A.

From: Rue, James A.
Sent: Monday, March 21, 2005 10:22 AM
To: [redacted]
Subject: [redacted]

Greg: To follow up on our conversation last Monday, please let me know when I can expect to receive the following:

1. Copies of the materials from Hollenbeck concerning investors in the Capstone Partners Private Equity B & M Fund. I would like to see both those you accepted and those you sent back.

2. Names and contact information of the investors identified on the Franklin Asset and Disciples Trust spreadsheets.

3. Accountings of Franklin Asset Exchange, Disciples Trust and The Webb Group.

We share your concern about John Colvin's role in the two Hollenbeck funds and would like to get any documents Mr. Hollenbeck may have that show Mr. Colvin's role in the two funds.

I will be back in the office Monday. Please telephone me if you have any questions.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Monday, March 14, 2005 7:51 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

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Please advise.

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Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

EXH B

Rue, James A.

From: [redacted]
Sent: Tuesday, March 22, 2005 8:40 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

As you get this email we have compiled the materials responsive to your items 2 and 3 (below) and I should be delivering a package to you before end of business on Thursday. As to item 1, all we need to do is run the copies

As to documents that Hollenbeck can and will produce that establish the de facto control Colvin had with these two "Funds" we are willing to cooperate as we view this effort as ultimately beneficial to Hollenbeck and his "Funds." But, please understand that this effort requires us to go back almost two years and scour files and records to locate and pull documents that fall within this request. We are undertaking that effort now. I will update you when it looks like we are coming to closure on what we can get you

The accountings for Webb and Franklin seem to be done. I need to review the formatting with the financial consulting firm that did them so that they show as much as needed to be useful.

Holler if you need more of a status report than this.

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

---- Original Message ----
From: Rue, James A.
To: [redacted]
Sent: Monday, March 21, 2005 9:27 AM
Subject: RE: Scott Hollenbeck

Greg: To follow up on our conversation last Monday, please let me know when I can expect to receive the following:

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Alex Rue
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Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: [redacted]
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex

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Gregory Bartko, Esq.
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3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

EXH B

Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

---- Original Message ----
From: Rue, James A.
To: [redacted]
Sent: Monday, March 21, 2005 9:22 AM
Subject: RE: Scott Hollenbeck

Greg: To follow up on our conversation last Monday, please let me know when I can expect to receive the following.

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Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Monday, March 14, 2005 7:51 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

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Please advise.

Gregory Bartko, Esq.
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

EXH B

Rue, James A.

From: [redacted]
Sent: Monday, March 28, 2005 11:02 AM
To: Rue, James A.
Subject: Re: Scott Hollenbeck

Alex

As it relates to your recent requests to Capstone B&M Fund, I am meeting with Ross Albert and Joe Manning at MMM on Monday, April 4, 2005. I expect that once I have that meeting, we will deliver to you the materials you have requested, but of course, I am not sure of that til I actually have the meeting. We decided to use more local counsel on this issue so we could have face-to-face meetings without delay.

As you might imagine, the early indications are just for the Fund to provide you with the information requested, but again--I wish to reserve on that until I meet with Ross and Joe on Monday

Please let me know if this timing does not suit you

Thanks.

Gregory Bartko, Esq.
Managing Partner
Capstone Private Equity Bridge/Mezz Fund
3475 Lenox Road
Suite 400
Atlanta, GA 30326
Phone: 404-238-0550
Fax: 404-238-0551
[redacted]

Rue, James A.

From: Rue, James A.
Sent: Tuesday, March 22, 2005 6:46 PM
To: [redacted]
Subject: RE: Scott Hollenbeck

Thanks. I can wait patiently for a few more days.

Alex Rue
Senior Trial Counsel
Securities and Exchange Commission
Suite 1000
3475 Lenox Rd. NE
Atlanta, GA 30326
Office 404 842-7616
Fax 404 842-7679

From: [redacted]
Sent: Tuesday, March 22, 2005 5:40 PM
To: Rue, James A.
Cc: [redacted]
Subject: Re: Scott Hollenbeck

Alex

As you get this email, we have compiled the materials responsive to your items 2 and 3 (below) and I should be delivering a package to you before end of business on Thursday. As to item 1, all we need to do is run the copies

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Holler if you need more of a status report than this

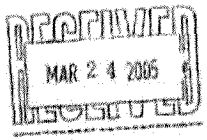
Gregory Bartko, Esq
Law Office of Gregory Bartko
3475 Lenox Road
Suite 400

EXH B

LAW OFFICE OF
Gregory Bartko, Esq.
ATTORNEY AT LAW

VIA HAND DELIVERY

March 24, 2005



Mr. Alex Rue
Senior Trial Counsel
U. S. Securities and Exchange Commission
Atlanta District Office
3475 Lenox Road
Suite 1000
Atlanta, Georgia 30326-1232

Re: SEC vs. Mobile Billboards of America, Inc
Claim No. 1:04cv2763 Scott Hollenbeck

Dear Alex:

This letter with attachments follows our meeting in your office on March 14, 2005. I am guided by your email to me dated March 21, 2005 describing four categories of additional information you requested.

As to item two in your email, please find attached the following:

Webb Group--Franklin Asset 2005 Client List; and

Disciples Trust, LLC Client List.

As to item 3 in your email, I am enclosing the preliminary results of the accounting that has been constructed for Webb Financial Group and for Franklin Asset Exchange, LLC. This accounting treated all investors as holders of debt instruments from the combined "Fund" on a collapsed basis, meaning that no distinction was made on whether a given investor provided funds to Webb or to Franklin. The accounting analysis was premised upon a FIFO basis.

In regards to our continuing efforts on behalf of Mr. Hollenbeck to secure the repayment to Franklin of funds deployed to third-party corporate borrowers, Wes and I can now confirm to you that BMP Investments, Inc. has fully executed the Confession of Judgment in favor of Webb and Franklin. I am attaching a copy of that document. We have little if any information about the manner that Disciples Trust, LLC has been or is being managed. Our client has not spoken with Mr. Colvin since November 2004. Mr Hollenbeck's role with Disciples Trust, LLC seems to be nothing more than referring some of his clients to Mr. Colvin.

As to your last inquiry requesting documents that our client has relative to the involvement of Mr Colvin with Webb and Franklin, we are now undertaking a search of all materials that fall within this category. That search will take some time, especially in light of the fact that our client is visiting family out

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[redacted]

of state through early next week. In the meantime, I have reviewed my files maintained in this office as one of the managing members of Caledonian Private Equity Partners, LLC (an Isle of Man limited liability company completely separate and distinct from Capstone Private Equity Bridge & Mezzanine Fund, LLC), and I am herewith delivering to you the following in that regard:

February 24, 2004 Commitment Letter;

March 30, 2004 Notes Subscription Agreement;

March 30, 2004 Promissory Note;

September 1, 2004 Letter To John Colvin; and

October 1, 2004 Demand Letter By Fund Counsel.

The request you made for documentation relating to the Capstone Private Equity Bridge & Mezzanine Fund, LLC ("Capstone Fund") places me in somewhat of a tickish situation, as I am one of the managing members of the Capstone Fund and my decisions on behalf of that fund must be made in furtherance of my fiduciary duty as such, yet also in line with my role as co-counsel for Mr. Hollenbeck in this case. Before I actually deliver materials to the SEC that relate to that fund, I have decided to consult with our counsel, Squire, Sanders & Dempsey, LLP in Palo Alto, CA. I want to be able to secure independent advice from counsel to the fund before we just deliver documents relating to our fund that do not have anything to do with the above-referenced SEC investigation and related civil litigation, especially considering the fact that the fund has not paid any compensation to Mr. Hollenbeck, individually or to any entity he controls.

Please contact me if you have further questions. I am out for Good Friday, but will be in my office on the following Monday.

Sincerely,

Gregory Bartko, Esq.
Cc: J. Wes Covington, Esq. (cover only)
Scott B. Hollenbeck (cover only)

Suite 400 • 3475 Lenox Road • Atlanta, Georgia 30326 • Phone (404) 238-0550 • Fax (404) 238-0551
[redacted]

EXH C

Capstone Private Equity Bridge & Mezzanine Fund, LLC
A Private Equity Fund
Capstone Financial Partners, LLC - Advisor - Manager
3475 Lenox Road, Suite 400 • Atlanta, GA 30326
Phone (404) 238-0550 • Fax (404) 238-0551

VIA HAND DELIVERY

June 29, 2005

David T. McClellan
Chief, Branch of Broker Dealer Examinations
U.S. Securities and Exchange Commission
3475 Lenox Road
Suite 500
Atlanta, GA 30326

Re: *Capstone Private Equity Bridge & Mezzanine Fund, LLC*

Dear Mr. McClellan:

In the course of your examination of the books and records of Capstone Partners, L.C., an NASD member-broker dealer registered as such with the U.S. Securities and Exchange Commission ("Commission"), you have requested me to voluntarily provide copies of certain records associated with the above-named Capstone Private Equity Bridge & Mezzanine Fund, LLC ("Fund"). As I have indicated in our examination discussions, our broker-dealer is not affiliated with the Fund through any contractual relationship or cross-ownership. I am a partner of the Fund and as you know, I am one of the principal owners of the broker-dealer and its chief executive officer.

In the spirit of full cooperation with the Commission, and after consulting with our Fund's legal counsel, Ross Albert, Esq. of Morris, Manning & Martin, LLP, the Fund is willing to voluntarily supply the attached Confidential Information Memorandum for the Fund dated December 31, 2004 along with the referenced subscription documents attached, plus the Fund's banking statements from inception through the most current month available. This would be December 2004 through May 2005, inclusive. The only banking account maintained by the Fund at anytime was with Wachovia Bank as referenced on these statements. Please treat this materials with the same confidentiality and understanding as all other materials that were directly provided to Alex Rue, Esq. of your office, as supplied by our legal counsel.

Sincerely,

Gregory Bartko, Esq.
Gabriam
Cc: Ross Albert, Esq. (w/o enclosures)

Capstone Private Equity Bridge & Mezzanine Fund, LLC
A Private Equity Fund
Capstone Financial Partners, LLC - Advisor - Manager
3475 Lenox Road, Suite 400 • Atlanta, GA 30326
Phone (404) 238-0550 • Fax (404) 238-0551

VIA HAND DELIVERY

July 1, 2005

David T. McClellan
Chief, Branch of Broker Dealer Examinations
U.S. Securities and Exchange Commission
3475 Lenox Road
Suite 500
Atlanta, GA 30326

Re: *Capstone Private Equity Bridge & Mezzanine Fund, LLC*

Dear Mr. McClellan:

In the course of your examination of the books and records of Capstone Partners, L.C., an NASD member-broker dealer registered as such with the U.S. Securities and Exchange Commission ("Commission"), you have requested me to supplement the voluntary production of records associated with the above-named Capstone Private Equity Bridge & Mezzanine Fund, LLC ("Fund"). As I indicated in my cover letter of June 29, 2005 with our first voluntary production of materials, our broker-dealer is not affiliated with the Fund through any contractual relationship or cross-ownership. I am a partner of the Fund and as you know, I am one of the principal owners of the broker-dealer and its chief executive officer.

Again, in the spirit of full cooperation with the Commission, the Fund is willing to voluntarily supply the attached series of cancelled checks issued to several prospective or actual Fund investors that represent returns of capital and a one page spreadsheet that accounts for the calculation of the receipt of all funds initially received from proposed investors or actual investors that the Fund ultimately accepted subscription agreements from. This spreadsheet was prepared to calculate the precise amount of Fund capital that was returned to Fund investors and the details of the interpleader filed against Legacy Resource Management, Inc. ("Legacy"), as well as the known clients of Legacy. You have also requested Fund check numbers 1001, 1002 and 1019 through 1023, inclusive, which we are willing to provide to you, but we will need to request copies of those checks directly from Wachovia Bank as they can not be accessed online if they are more than 90 days old. I will supplement this delivery with copies of check numbers 1019 through 1023 next week after the bank opens.

Please treat these materials with the same confidentiality and understanding as all other materials that were directly provided to Alex Rue, Esq. of your office, as supplied by our legal counsel.

Sincerely,

Gregory Bartko, Esq.
Gabriam
Cc: Ross Albert, Esq. (w/o enclosures)

ATLANTA, GA • FT. LAUDERDALE, FL

EXH D

Capstone Private Equity Bridge & Mezzanine Fund, LLC
A Private Equity Fund
3475 Lenox Road, Suite 400 • Atlanta, GA 30326
Phone (404) 239-0550 • Fax (404) 239-0551

RECEIVED
AUG 09 2005

VIA HAND DELIVERY

August 9, 2005

David T. McClellan
Chief, Branch of Broker Dealer Examinations
U.S. Securities and Exchange Commission
3475 Lenox Road
Suite 500
Atlanta, GA 30326

Re: *Capstone Private Equity Bridge & Mezzanine Fund, LLC*

Dear Mr. McClellan,

This letter and the attachment that follows, supplement our previous deliveries to you in connection with the above.

Please treat these materials with the same confidentiality and understanding as all other materials that were directly provided to Alex Rue, Esq. of your office, as supplied by our legal counsel, as well as those other materials we voluntarily provided to you during your recent examination of Capstone Partners, LC.

Sincerely,

Gregory Baxter, Esq.
Gabriam
Cc: Ross Albert, Esq. (w/o enclosures)

EXH D

Capstone Private Equity Bridge & Mezzanine Fund, LLC
A Private Equity Fund
3475 Lenox Road, Suite 400 • Atlanta, GA 30326
Phone (404) 239-0550 • Fax (404) 239-0551

VIA HAND DELIVERY

July 6, 2005

David T. McClellan
Chief, Branch of Broker Dealer Examinations
U.S. Securities and Exchange Commission
3475 Lenox Road
Suite 500
Atlanta, GA 30326

Re: *Capstone Private Equity Bridge & Mezzanine Fund, LLC*

Dear Mr. McClellan:

This letter and the attachments that follow, supplement our delivery to you dated July 1, 2005 in connection with the above.

Please treat these materials with the same confidentiality and understanding as all other materials that were directly provided to Alex Rue, Esq. of your office, as supplied by our legal counsel, as well as those other materials we voluntarily provided to you last week.

Sincerely,

Gregory Baxter, Esq.
Gabriam
Cc: Ross Albert, Esq. (w/o enclosures)

ATLANTA, GA • FT. LAUDERDALE, FL

EXH D

U.S. SECURITIES AND EXCHANGE COMMISSION
ATLANTA REGIONAL OFFICE
3475 Lenox Road, N.E. Suite 500
Atlanta, GA 30326-1232

Penny J. Morgan
Staff Attorney

Direct Line (404) 842-7639
Facsimile (404) 842-7633

August 23, 2011

Amanda Clark Palmer, Esq.
Garland, Samuel & Loeb
3151 Maple Drive, N.E.
Atlanta, GA 30305

Re: In the Matter of Gregory Bartko (A-03287)

Dear Ms. Clark Palmer:

As we discussed in our telephone conversation today, I am attaching a copy of a letter dated August 18, 2011 sent to me by your client, Gregory Bartko, requesting certain changes to our proposed Offer of Settlement and Order in the above referenced matter. Unfortunately, we are not permitted to alter the language in Sections IV., paragraphs A. and B., VI., VII., and VIII. Based on Mr. Bartko's correspondence, it is our understanding that he would not execute these settlement documents without these changes. If that is not the case, please let me know no later than Friday, September 2, 2011.

If you have any questions, please contact me at (404) 842-7639.

Sincerely,

Penny J. Morgan
Senior Counsel

Enc.

EXH E

Ms. Penny J. Morgan
Atlanta District Office
Securities & Exchange Comm'n
3475 Lenox Rd, NE, Suite 1000
Atlanta, GA. 30326

August 18, 2011

RE: Proposed Offer of Settlement f/b/o
Gregory Bartko

Dear Ms. Morgan

One of my attorneys, Amanda Clark-Palmer, forwared to me your fax to her office dated August 11, 2011. I think it is better that you deal directly with me on the matter at hand although do feel free to contact Amanda or Don Samuel if you need to discuss any issues by telephone.

I have reviewed the proposed Offer of Settlement and the proposed order. In concept, I do not oppose the approval of a consent order to be submitted to the SEC, but as drafted, there are some points that I would like included in any Offer of Settlement. Mostly, these points address the situation that may arise in the event that my criminal convictions are vacated by the grant of a new trial or by appellate reversal. There are some verbiage issues I would like addressed as well even though I recognize much of the proposed language will be claimed by the Commission staff to be unalterable. Using your draft Offer of Settlement on a sequential paragraph basis, I am requesting that the Offer of Settlement be revised to accomodate the following concerns:

EXH E

Generally:

You are correct that convictions were entered in my criminal case set forth in TP III (B)(2) of the proposed offer. However, on June 29, 2011, the government revealed for the first time that a number of potentially remedial "Brady" violations were discovered in my prosecution. Factual background of these Brady violations can be reviewed at my case on PACER, docket entries 211, 212 and 225. An omnibus reply to the government's responses can be found at docket entry 236. An evidentiary hearing on these Brady violations was held on July 25, 2011 and our motions for a new trial are now pending a decision. At the evidentiary hearing, the government made at least one startling admission that is described on page 22 of docket entry 236. It is the considered judgment of my criminal trial team that based upon the legal authority set forth in our omnibus brief at docket entry 236, my convictions are constitutionally infirm and should be set aside. Of course what we don't know is whether that result will obtain by the trial court or the appellate court. Due to these uncertainties, I ask that the following revisions be considered:

II. As to this paragraph, I do not have access to the Rules of Practice expressed in Section V and before I waive any rights, I would like to know what they are.

III.(B)(1) Please revise to update my age to 58. To be completely accurate, although Capstone Partners, L.C. was a registered broker-dealer under my control from 1999 through my

EXH E

conviction date, our registration as an investment advisor came much later, ie I believe in 2009. There is a typo in the last sentence, ie "was also was."

III. (B)(3) I cannot agree to the description of the superseding indictment. I don't mind incorporating it by reference, but the description is problematic for me.

IV (A). Why include the penny stock ban as the allegations in the superseding indictment have nothing to do with any registered securities? Also, the ban would include vague participants such as promoter, finder, consultant or agent, none of which have been adequately defined by the Commission. I can live with the rest of this subparagraph without the penny stock ban.

IV (B). In addition to the reapplication language, I am requesting a new, separate section that would make it clear that in the event of the grant of a new trial or reversal on appeal, the effect of the Offer of Settlement and any Commission order would be set aside on a nunc pro tunc basis. No reapplication or reentry process should be necessary upon the submission to the Commission of a certified copy of the court's relevant order.

V. Same comment as II, supra.

VI. This provision would not be effective in the event

EXH E

my convictions were to be set aside.

VII. I cannot consent to any double jeopardy waiver.

VIII. I cannot waive any rights to seek recovery of attorneys' fees, costs etc. in the event that my convictions were to be set aside. In addition, if my convictions were to be set aside and a need arose for me to incur fees or expenses associated with the order setting aside the offer of settlement and the Commission order, I want to reserve my rights under the quoted statutes. Also, any "no waiver" language should include any statutory rights I may have for the recovery of fees, costs or expenses that may be allowable under the Freedom of Information Act.

Please adjust the language in both documents to accomodate my comments and return clean drafts of both to my attention at the address shown below. There is no notary at this facility so if possible remove the notary part.

Thank you.

Sincerely,

Gregory Bartko

Mailing Address:

Gregory Bartko
Franklin County Detention Center
285 T-Kemp Road
Louisburg, NC 27549

EXH E

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF
NORTH CAROLINA

CAPSTONE PRIVATE EQUITY BRIDGE & MEZZANINE FUND, LLC Plaintiff, v. LEGACY RESOURCE MANAGEMENT, INC.; WILLIAM & PATRICIA PIPES ENTERPRISES, LLC; EVELYN K. RANSOPHER; GOTTLIEB TREIBER; HELEN M. THROCKMORTON; MICHAEL L. & SPRING M. REGISTER; MARK A. LETSON; ELISA L. FERRYMAN; MAXINE JEFFRIES; JASON HEMSTED; WINIFRED L. PIEK; CHARLES WILEY REDDICK; RAYMOND T. REDDICK, JR.; CARLENE C. RUDD-SMITH; GUY G. SMITH, SR.; SHARON ANN GLOVER; CAROL FREY; SUSAN L. MITCHELL; and MICHAEL L. LEWIS. Defendants.	CIVIL ACTION NO. 1:05CV00469

COMPLAINT TO INTERPLEAD

[redacted]

[redacted]

EXH F

(...) 2 of 155

[redacted] is [redacted]

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4.

[redacted]

The Fund was designed to function as a private equity investment fund

[redacted]

Confidential Treatment Requested
by Capstone Private Equity Bridge
& Mezzanine Fund, LLC

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by Capstone Private Equity Bridge
& Mezzanine Fund, LLC

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& Mezzanine Fund, LLC

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by Capstone Private Equity Bridge
& Mezzanine Fund, LLC

[redacted]

Confidential Treatment Requested
by Capstone Private Equity Bridge
& Mezzanine Fund, LLC

[redacted]

Gregory Bartko, Esq.
General Counsel To Plaintiff
North Carolina Bar No. 15703
3475 Lenox Road
Suite 400
Atlanta, Georgia 30326
404-238-0550
[redacted]

19

CAP 0454

WACHOVIA

Close

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9612

March 29, 2012

Amanda Palmer
Garland, Samuel & Loeb, P.C.
3151 Maple Drive
Atlanta, GA 30305

Re: Subpoena, *United States v. Gregory Bartko*, Case 5:09-cr-00321-D (Eastern District of North Carolina)

Dear Ms. Palmer:

As reflected in our March 19 letter, the Atlanta Regional Office of the United States Securities and Exchange Commission did not conduct an inquiry citing Capstone Private Equity Bridge & Mezzanine Fund, LLC ("Capstone B&M"), and so, does not hold responsive records. However, during the course of an investigation into issues surrounding Mobile Billboards of America, Inc., staff did obtain some information pertaining to Capstone B&M. We have completed our review of the files related to the Mobile Billboards investigation and extracted those materials that mention Capstone B&M or were obtained from Mr. Bartko or other representatives on his or Capstone B&M's behalf. Those materials are enclosed. Finally, as stated in the March 19 letter, no witness will appear in this matter on April 4, 2012. If you have any questions, please call me at 202-551-5158.

Sincerely,

Celia Jacoby
Senior Counsel

EXH G

[redacted]

Comments	[redacted]	Amount Invested	Finders Fees	Amount Refunded
A	[redacted]	100,000.00	0.00	[redacted]
A	[redacted]	30,000.00	0.00	[redacted]
A	[redacted]	70,000.00	0.00	[redacted]
A	[redacted]	26,251.16	0.00	[redacted]
A	[redacted]	60,000.00	0.00	[redacted]
A	[redacted]	174,369.43	0.00	[redacted]
A	[redacted]	80,000.00	0.00	[redacted]
A	[redacted]	2,003.86	0.00	[redacted]
A	[redacted]	95,860.64	0.00	[redacted]
A	[redacted]	35,000.00	0.00	[redacted]
A	[redacted]	75,000.00	0.00	[redacted]
A	[redacted]	50,000.00	0.00	[redacted]
A	[redacted]	40,000.00	0.00	[redacted]
A	[redacted]	42,640.00	0.00	[redacted]
A	[redacted]	10,000.00	0.00	[redacted]
A	[redacted]	85,000.00	0.00	[redacted]
A	[redacted]	20,000.00	0.00	[redacted]
A	[redacted]	20,000.00	0.00	[redacted]
D	[redacted]	50,000.00	0.00	[redacted]
B	[redacted]	170,000.00	10,200.00	[redacted]
B	[redacted]	100,000.00	6,000.00	[redacted]
B	[redacted]	100,000.00	6,000.00	[redacted]
B	[redacted]	447,000.00	26,820.00	[redacted]
C	[redacted]	1,600,268.77	94,095.50	[redacted]
	Totals	3,483,413.86	143,115.50	[redacted]

A - Determined not to be accredited investors - Full Refund - No Finder Fees were paid

B- Refund Less Finder Fees

C - Differences between Capstone's Schedule and the staff's

1) Total Investments Per Schedule	1,436,219.26
2) Total Investment Per Above	1,600,268.77
Difference	164,069.52
Legacy Refunds Made Prior to Liquidation	(164,030.56)
Math Error	38.96

D - Full Refund

[redacted]