UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18061

In the Matter of

RETIREMENT SURETY LLC, CRESCENDO FINANCIAL LLC, THOMAS ROSE, DAVID LEEMAN, AND DAVID FEATHERSTONE,

Respondents.

DIVISION OF ENFORCEMENT'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY DISPOSITION

DIVISION OF ENFORCEMENT
Jennifer K. Vakiener
Securities and Exchange Commission
200 Vesey Street, Suite 400
New York, New York 10281
(212) 336-5145

Dated: December 22, 2017

The Division of Enforcement ("Division") respectfully submits this Reply Memorandum of Law in support of its motion for summary disposition against Respondents Thomas Rose ("Rose"), David Leeman ("Leeman"), and David Featherstone ("Featherstone") (collectively "Respondents").

ARGUMENT

In response to Respondent's arguments in their opposition brief ("Opp. Mem."), the Division sets forth below the reasons why summary disposition is appropriate, Respondents recklessly disregarded regulatory requirements in acting as unregistered brokers, Respondents' conduct created a substantial risk of losses to investors, and the Court should award disgorgement, interest and civil penalties.

I. Summary Disposition is Appropriate

Summary disposition is appropriate here as there are no material facts in dispute and only legal issues remain. *See, e.g., Middlebury Securities LLC et al.*, AP File Nos. 3-16227, 3-16229, (Mar. 1, 2017) (Initial Decision) (Judge Elliot). The case of *Middlebury*—cited by Respondents—is instructive here as the procedural posture was similar to the instant case: Respondents had agreed not to contest the factual findings in the Order, and the narrow issue before the court was monetary sanctions. In that case, the Court determined that where, as in the instant case, the amount of proceeds that was received by respondents was not in dispute, and the respondents submitted extensive financial information concerning their financial condition, only legal questions remained, and summary disposition was appropriate. *Id.* at 8. Specifically, the Court found the issues in that case – *i.e.*, whether disgorgement and civil penalties were in the public interest, and whether those respondents had an inability to pay – raised legal (not fact) issues appropriately resolved on summary disposition. *Id.*

II. Respondents Recklessly Disregarded Regulatory Requirements

Respondents argue that second or third-tier penalties are inappropriate, on the alleged grounds that their conduct does not constitute reckless disregard of the regulatory requirement at issue – *i.e.*, that they act as licensed securities brokers. The undisputed facts, however, support the conclusion that their conduct was reckless. Respondents admit that they knew that selling securities without a license was a regulatory violation,[1] and it is uncontested that Respondents had "concerns" that the Verto Notes were securities when they began selling them in November 2013 (and through at least June 2014), Order ¶ 27.

These concerns arose at least as early as November 2013—at the start of the Respondents selling the Verto Notes—when Respondent Leeman indisputably knew that another broker's attorney had opined that the Verto Notes *were* securities and had counseled his client (another potential broker of Verto Notes) *not to sell the Verto Notes* for this very reason. That attorney's opinion plainly put Leeman on notice that his activities might be deemed to violate the securities laws. (Order ¶ 27) ("Respondent Leeman stated on November 15, 2013 that he received a call from another broker who 'called to let [Leeman] know that the attorney [the broker] asked to do his due diligence has recommended that he not participate' and '[t]he issue appears to be his opinion that our notes is a security.'")[2]

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[1] *See* Opp. Mem. at 11 (stating Respondents "investigated whether the Verto Notes were a security because they wanted to ensure regulatory compliance – that they could sell the Verto Notes without a securities license.")

[2] Respondent Leeman states in a November 15, 2013 email to Verto's CEO that the attorney for another potential broker was of the opinion that the Verto Notes were securities and in the same email asks whether Verto's CEO has been able to deposit Leeman's commissions into his bank account. (Vakiener Dec. Exh. A.) In a separate November 2013 email regarding the same attorney and issue, Leeman stated: "Nice that we have an attorney vetting the company for us on [another potential broker's] nickel!! Sure hope it's all OK because I wrote up $75,000 today!" (*Id.* Exh. B.)

Respondents argue that any such concerns were alleviated by an August 2014 email authored by Verto attorney John Pauciulo, and forwarded to Respondents by Verto's CEO. (Opp. Mem. at 11 (citing Appx. 0998)). The August 2014 email, however, cannot fairly be read to alleviate such concerns, as Verto's attorney (hardly a disinterested party) expressly states in his email that he cannot provide a legal opinion on the topic. In any event, Respondents cannot claim to have relied upon the Verto attorney email because they received it during the last quarter of 2014, nine months *after* they began selling the Verto Notes (all the while harboring concerns that to do so might be illegal).

Respondents also refer to "talking to their own counsel," and to their own research, which they assert collectively "provided them comfort that they could sell the Verto Notes without a securities license." (Opp. Mem. at 10-11.) Respondents apparently refer here to an attorney named David Shelmire. Respondent Leeman, however, asserted privilege over his alleged conversations with Mr. Shelmire. (Leeman Transcript, Vakiener Dec. Exh. C at 105:6-109:2;113:12-114:21.) Thus, Respondents have not disclosed what facts they conveyed to Mr. Shelmire, what advice, if any, was provided by Mr. Shelmire, or that they reasonably relied on that advice.[3] To the contrary, Leeman conceded in testimony that Mr. Shelmire was not retained to provide him any legal advice of the type he now claims:

[3] To assert any sort of "reliance on counsel" argument, Respondents need to establish that they disclosed all relevant facts to Mr. Shelmire, and that they relied in good faith on his advice – neither of which they claim to have done. *See SEC v. Bankatlantic Bancorp, Inc.*, 661 Fed.Appx. 629, *637 (11th Cir. 2016) (not selected for publication) ("The affirmative defense for reliance-on-professional-advice requires that Defendants establish that '(1) they fully disclosed all relevant facts to the expert and (2) that [they] relied in good faith on the expert's advice.'") (quoting *United States v. Johnson*, 730 F.2d 683, 686 (11th Cir. 1984)); *Markowski v. SEC*, 34 F.3d 99, 104-05 (2d Cir. 1994) *SEC v. Tourre*, 950 F.Supp.2d 666, 683-85 (S.D.N.Y. 2013) (in securities fraud disclosure case, because defendant did not claim to have relied on advice of company counsel, or to have provided them all relevant information, District Court precluded him at trial from introducing evidence to "suggest that counsel blessed the relevant disclosures").

> Q: What was he retained to do for you, Mr. Shelmiere, without exposing specific commissions? What was the purpose of the retention?
>
> A: As I said before, if, God forbid, there was a failure of Verto to pay as promised, he would be our man to serve Crescendo and our clients to claim the collateral as promised, if we needed that.
>
> Q: So it is fair to say he wasn't retained to give you any legal advice about the security laws; is that fair to say?
>
> A: That's fair to say.

(Leeman Transcript, Vakiener Dec. Exh. C at 114:11-21.) Indeed, Respondents do not even assert that Mr. Shelmire provided them any legal advice to the effect that the Verto Notes were not securities, or that they otherwise could be sold without a license. Thus, by August 2014 – when Respondents received the Verto attorney email – the most Respondents can claim is that they had learned (from another broker's attorney) that the Verto notes *were* securities, and that selling them without a brokerage license would be illegal. These undisputed facts amply establish that Respondents acted in reckless disregard for their regulatory obligation not to broker securities sales without a license.

III. Respondents Created a Substantial Risk of Losses to Investors

Respondents further assert that third-tier penalties are inappropriate because their illegal actions allegedly did not create a substantial risk of loss to investors. Specifically, Respondents assert that (1) Verto note investors might not realize any losses because as part of his settlement with the Commission in *SEC v. William R. Schantz III and Verto Captial Mngmt LLC,* No. 17-cv-03115 (D.N.J.), Verto's CEO "is on track to repay investors, with interest," Opp. Mem. at 9; and (2) Respondents were not aware of Verto's fraudulent conduct, *id.* at 12. Regardless of whether Respondents knew of Verto's fraud, and regardless of whether defrauded investors are repaid, Respondents' actions put Verto investors at risk. Respondents solicited Verto note investors by advertising the notes as "low risk," Order at ¶¶ 16-19, and held themselves out as

"financial advisors," *id.* at ¶ 25 – without satisfying the qualifications of registered securities brokers, *id.* at ¶ 29. These regulatory obligations are specifically intended for investor protection. (*See* Mem. at 14.) Furthermore, Respondents marketed themselves as having the financial qualifications and certifications to recommend the investment when, in fact, the Respondents were not licensed to sell securities and make investment recommendations. Thus, Respondents put potential investors at risk regardless of whether any underlying fraud existed.[4]

IV. The Court Should Award Disgorgement, Interest and Civil Penalties

Respondents further assert that disgorgement is inappropriate because (1) they are unable to pay all or an unspecified portion of the disgorgement, interest, and penalties the Division seeks; and (2) the Division's requested disgorgement is disproportionate to the amounts ordered in the related settled Commission administrative proceeding against respondents Wallis and Wills. (Opp. Mem. at 6-8.)

Respondents proffer affidavits of their financial condition, but their condition is not sufficiently dire to warrant lower monetary sanctions than the Division seeks. Importantly, each Respondent reports current monthly gross household income: Leeman's income is [redacted] per month, Appx. 0362; Rose's income is [redacted] per month, *id.* at 0580-81; and Featherstone's income is at least [redacted] per month, *id.* at 0995.[5] In addition, Rose and Leeman assert that they each have current positive net monthly household income (net of their monthly expenses), Opp.

[4] The settlements of Wallis and Wills created a Fair Fund in order to repay the impacted investors and provided that the Fair Fund may receive the funds from and or be combined with the fair fund established in the related civil action *SEC v. Verto Capital Management LLC,* and fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue (such as Rose, Leeman, and Featherstone) in order for the combined fair funds to be distributed to harmed investors. (*See* OIPs for Wallis and Wills, Vakiener Dec. Exhs. D & E.)

[5] We calculated Featherstone's monthly income by adding his [redacted] annual salary (the lower end of his self-reported salary range) and his [redacted] annual social security benefit, Appx. at 0995, and dividing the sum by twelve.

Mem. at 5-6; and though Featherstone does not provide a monthly expense figure, his annual salary is [redacted] and his overall net worth (assets minus liabilities) exceeds $1.3 million, Appx. 0583. Respondents Leeman and Rose likewise report positive overall net worth: Leeman's is [redacted], Appx. at 0003; and Rose's is $718,946, *id.* at 0364. Notably, Respondents' financial conditions are distinguishable from the individual respondent in *Middlebury*. In that case, the Court reduced disgorgement due to respondent's inability to pay, but based that reduction, at least in part, on the fact that his "financial statement indicates that his liabilities greatly exceed his assets, and he estimates that his monthly expenses exceed his income." *Middlebury*, at 13.

In any event, even if the Court were to find that "it will be difficult for [a Respondent] to pay sanctions," the Court should still be "reluctant to relieve [a respondent] entirely of his [disgorgement] obligation." *Id.* (*See also* Mem. at 10-11 (citing *Peterson* that rejected argument of "financial hardship" as sufficient to meet the standard of inability to pay where respondent had available assets that exceeded the amount sought and "d[id] not establish that he would be unable to pay the amount sought, or that the payment would then leave his family unable to meet their needs and obligations.") This is particularly true when, as a general matter, respondents may be able to enter into an installment plan with the Commission that will allow for them to pay any sanctions over time. *Middlebury*, at 14.

Respondents' comparisons to the relief the Division obtained in a settled proceeding against Wallis and Wills, Opp. Mem. at 8 n. 2, is also unavailing. The Wallis and Wills monetary relief was arrived at through a negotiated settlement, whereas Respondents have chosen instead to litigate these issues. For this reason alone, Respondents' reliance is misplaced.[6]

[6] *See Philip A. Lehman,* File No. 3-11972, Exchange Act Release No. 34-54660. 89 SEC 529, 2006 WL 3054584, at *9 (Oct. 27, 2006) (Commission Opinion) (rejecting Respondent's

Moreover, the argument that Respondents should be credited for taxes they paid on their unlawful commissions has been routinely rejected by the Commission. (*See* Mem. at 10-11 (citing *Peterson* (holding that that disgorgement should not be offset by taxes paid and treatments for special needs child and collecting cases).)

Finally, Respondents assert that the so-called "Forbearance Agreements" were not securities and that, therefore, Respondents should not be required to disgorge commissions they made on those instruments. The uncontested facts, however, establish that these instruments were securities – in essence, that they were reissuances of the Verto Notes. First, the Forbearance Agreements "extended the terms of the Verto Notes." (Order ¶ 22.) Second, the "documents entitled 'Forbearance Agreements'" were presented to investors by Respondents "when Verto was unable to repay the investors' amounts under the original Verto Notes." (*Id.*) Third, Respondents have already conceded (and cannot contest here) that they were "brokering" the Forbearance Agreements. (*Id.* ¶ 23.) Fourth, Respondents earned 4% commissions on the amount outstanding for brokering the Forbearance Agreements. (*Id.* ¶ 22.)

Respondents apparently are arguing that, by stipulating to the partial settlement order in this case, they conceded only that the original notes were securities, not the "Forbearance Agreements." The Order's statements highlighted above make it plain, however, that the 'so-called 'forbearance agreements,"' *id.*¶ 16, were reissuances of the Verto Notes. Indeed, Respondents apparently labelled the new instruments "forbearance agreements" precisely to

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citation to other, settled disciplinary actions that were purportedly more egregious: "Settled sanctions reflect pragmatic considerations such as the avoidance of time-and-manpower-consuming adversarial litigation") (citing *Anthony A. Adonnino,* File No. 3-10916, Exchange Act Release No. 34-48618, 81 SEC 981, 999, 2003 WL 22321935 (Oct. 9, 2003) (Commission Opinion), *aff'd*, 111 Fed. Appx. 46 (2d Cir. 2004) (unpublished) (settled cases may result in lesser sanctions); *Richard J. Puccio*, File No. 3-8438, Exchange Act Release No. 34-37849, 52 SEC 1041, 1045, 1996 WL 603681, at *4 (Oct. 22, 1996) (Commission Opinion).

avoid drawing attention to the fact that they were securities. Respondents entered into the so-called "forbearance agreements" after having learned of the Division's investigation and, presumably, sought to avoid the implication that they nonetheless were continuing to sell securities and to profit from the extension of the Verto Notes that Verto did not have funds to repay. Such conduct should be viewed as evidence further supporting Respondents' reckless disregard – *i.e.*, their continuing to sell securities and earn commissions on those sales without a license. These additional commissions should properly be disgorged.

CONCLUSION

For the foregoing reasons, as well as those set forth in the Division's memorandum filed on November 17, 2017, the Division respectfully requests that the relief requested in its motion for summary disposition be granted in its entirety.

Respectfully submitted,

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Securities and Exchange Commission
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New York, New York 10281
vakienerj@sec.gov
212-336-5145

December 22, 2017

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on December 22, 2017, a true and correct copy of the foregoing was sent in the manner indicated below upon the following:

VIA ELECTRONIC MAIL
Honorable Cameron Elliot
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
Via email to alj@sec.gov (courtesy copy)

VIA UPS
Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

VIA ELECTRONIC MAIL
Jeffrey Ansley
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Counsel for Respondents Retirement Surety, LLC, Crescendo Financial LLC, Thomas Rose, David Leeman and David Featherstone
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Jennifer K. Vakiener

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18061

In the Matter of

RETIREMENT SURETY LLC, CRESCENDO FINANCIAL LLC, THOMAS ROSE, DAVID LEEMAN, AND DAVID FEATHERSTONE,

Respondents.

DECLARATION OF JENNIFER K. VAKIENER

I, Jennifer K. Vakiener, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over 18 years of age and am employed as Senior Counsel in the Enforcement Division of the Securities and Exchange Commission, at its New York Regional Office. I submit this declaration on personal knowledge in support of the Division's motion for summary disposition against Respondents Thomas Rose, David Leeman, and David Featherstone.

2. Attached hereto as Exhibit A is a true and correct copy of an email dated November 15, 2013 from Verto's CEO to David Leeman.

3. Attached hereto as Exhibit B is a true and correct copy of an email dated November 20, 2013 from David Leeman to an attorney at Locke Lord that represented a potential broker.

4. Attached hereto as Exhibit C are true and correct copies of selected pages from the March 11, 2016 Testimony of Respondent David Leeman.

5. Attached hereto as Exhibit D is a true and correct copy of the Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the

Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order in the Matter of Randal Wallis dated July 6, 2017.

6. Attached hereto as Exhibit E is a true and correct copy of Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order in the Matter of Ronald Howard Wills dated July 6, 2017.

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

Dated: December 22, 2017

New York, NY

Jennifer K. Vakiener

EXHIBIT A

From: Bill Schantz [wschantz@seniorsettlementsllc.com]
Sent: Friday, November 15, 2013 5:20 PM
To: David Leeman
Subject: RE: Heads up email

Dave

Our emails must have crossed in the mail.

When I asked him if he had counsel he told me no. I am surprised at his response although I have no idea who his attorney is so who knows what he is thinking.

We use very good and expensive counsel to vet these issues and there is no problem at all with a 9 month note. You may be correct that there is something in California, which would not surprise me since they are a little wacky out there. In any event, I would be happy to have his counsel speak to ours and see where this goes.

In the email I sent you I did indicate that all commissions should be in your account on Monday.

Have a great weekend
Bill

From: David Leeman [mailto:dave@retirementsurety.com]
Sent: Friday, November 15, 2013 6:14 PM
To: Bill Schantz
Subject: Heads up email

Bill,
I got a call from Dave Valencia today while I was in a grocery store. He called to let me know that the attorney he asked to do his due diligence has recommended that he not participate. The issue appears to be his opinion that our note is a security.

The attorney is willing to talk to us, and Dave was supposed to email me the contact information—but he hasn't done that yet, so I assume we'll have to do this next week.

I reread the documents online that Tom and I sent to vet this issue, and I cannot see anything that would call a 9 month note a security unless the laws are different in California.

But I guess we'll just have to wait until we talk to him. Did you ever take this issue to your attorney?

Is Monday morning a possible time for you?

BTW thanks for all the correspondence to the clients. Those notes were perfect! I'm instructing the salespeople on how the bind the paperwork into an attractive piece to give the clients.

Have you been able to send the commissions to our Bank of Texas account?

Thanks,

Dave

Direct Phone: 469-363-3283
Email: Dave @ Retirementsurety.com

EXHIBIT B

From: David Leeman [mailto:dave@retirementsurety.com]
Sent: Wednesday, November 20, 2013 4:42 PM
To: Sherman, Thomas D.
Subject: RE: conference call

So this is what it's all about!! The plot thickens. Nice that we have an attorney vetting the company for us on Dave Valencia's nickel!!

Sure hope it's all OK because I wrote up $75,000 today!

Dave

From: Sherman, Thomas D. [mailto:TSherman@lockelord.com]
Sent: Wednesday, November 20, 2013 8:05 AM
To: Bill Schantz
Cc: Dave Leeman
Subject: RE: conference call

Thanks – very much looking forward to a call.

And thanks for reminding me about the past relationship. I did some work on the offering materials and other docs a few years back. Did you ever launch?

The focus of the call would be whether Senior Settlements relies on the 1933 Act Section 3(a)(3) exemption and, if so, how the program satisfies the investment grade and current transaction requirements. If Section 3(a)(3) is not relied upon by the company, then I would be curious what other exemption might apply. I note that the program seems to require accredited investor status. That might imply a form of Section 4 registration exemption. I'd love to see any opinions of counsel you might have on these issues, no action letters from the SEC, etc.

For 1934 Act purposes, does the Company rely on the definition of a security under Section 3(a)(10)? Any legal opinions or no action letters on that point?

~~Similar issues under the Investment Company Act of 1940. Why isn't Senior~~ Settlements an Investment Company?

Finally, assuming there are no federal law issues, there may be some state ~~security law issues. I note that CA doesn't seem to have a 'commercial' paper~~ exemption (although I might have missed it), so I would be interested to learn why the Promissory Notes aren't securities under the CA security/Blue Sky laws, and, if they are, assuming some form of private placement registration exemption might apply, wouldn't the CA antifraud provisions still apply to the sale of the ~~notes?~~

Nice to hear from you again.

Thomas D. Sherman, Esquire

Locke Lord LLP

Terminus 200

Suite 1200

3333 Piedmont Rd., N.E.

Atlanta, Georgia 30305

404.870.4672 Direct Dial

404.806.5672 Desktop Fax

tsherman@lockelord.com

From: Bill Schantz [mailto:wschantz@seniorsettlementsllc.com]
Sent: Tuesday, November 19, 2013 4:21 PM
To: Sherman, Thomas D.
Cc: Dave Leeman
Subject: conference call

Dave/Tom

Tom – By way of introduction, and full disclosure I have been working with Lock Lorde for about 15 years now. I have known Brian Casey and did extensive work with him over the years, including premium finance structures, origination facilities and private placement. We did the first capital markets facility 15 years ago and Brian worked with us all along.

Randy Johnson worked with us to develop a private placement about 4 years ago and I did a lot of work with Jim Sinnott who eventually left the firm to pursue a position in the life settlement arena.

I am happy to discuss our 9 month note program with you. Our counsel for the note program is John Paciullo of Eckert Seamans. John has an extensive securities background and is an ex investigator for the SEC. Unfortunately, John was travelling the early part of this week but I believe we should be in a position to schedule a call at the latter part of the week if this meets your schedule.

Thanks and I look forward to speaking with you.

Kind Regards

Bill

William R. Schantz,III

CEO

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For more information visit www.lockelord.com

EXHIBIT C

NY-09269

Leeman_David_20160311

3/11/2016 9:47 AM

Full-size Transcript

Prepared by:

NY-09269

Friday, June 30, 2017

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. NY-09269-A

VERTO CAPITAL MANAGEMENT, LLC)

WITNESS: David Leeman

PAGES: 1 through 221

PLACE: Securities and Exchange Commission

801 Cherry Street, 19th Floor

Fort Worth, TX 76102

DATE: Friday, March 11, 2016

The above entitled matter came on for hearing, pursuant to notice, at 8:47 a.m. (CST); 9:47 a.m. (EST).

APPEARANCES:

On behalf of the Securities and Exchange Commission
(Via Video Conference):

VINCENT T. HULL, ESQ.
JENNIFER VAKIENER, ESQ.
JACK KAUFMAN, ESQ.
STEVEN G. RAWLINGS, ESQ.
Securities and Exchange Commission
Division of Enforcement
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On behalf of the Verto Capital Management and the
Witness:

GREGORY D. KELMINSON, ESQ.
Bell Nunnally & Martin
3232 McKinney Avenue, Suite 1400
Dallas, TX 75204
(214) 740-1494

Also Present:

Adam Dwyer, SEC Intern

What is the big win?

A Well, that we've been given another testimony or help in offering this potentially to other agents, such as ourselves.

BY MR. KAUFMAN:

Q As of this date, November 21st, 2013, you hadn't gotten any assurance, am I correct, that the Verto Notes are not securities?

A Not other than from Mr. Pauciulo. We hadn't reached out to this attorney, Locke Lord, we didn't know him.

Q Okay. I just didn't hear your response. As of this date, when you sent this email, you hadn't yet had assurance that these were not securities, correct?

A We had to our satisfaction, but this was yet another person potentially being involved, who needed his own satisfaction through his own counsel.

Q As of November 21st, 2013, how had you satisfied yourselves that the notes were not securities under the Securities Act?

A Based on, first of all, the position of Bill's attorney from a very large and reputable law firm in Philadelphia, based on our own study of what constituted a security, documents from both the SEC that defined the exemptions, that we felt this note

included, based on our conversation with a Dallas attorney that we had met with.

And so we were satisfied, but we couldn't speak for somebody in another state who had their own attorney.

Q Let me try to break that down, because you said a lot of things there. At this point, as of November 21st, 2013, had you already received in some way, either directly or indirectly, what you believed was Mr. Pauciulo's view on this matter?

A Yes, we had.

Q How had you received it?

A As I said before, I can't recall whether we had an actual phone conversation or not, we may have, and we had email exchange, but most of all, we had the testimony of Mr. Schantz, who we believed would have never engaged in selling this if his attorney had said you better not, it is a security. He wouldn't do that.

Q You mentioned an attorney in Dallas, Texas. Who is that?

A His name is David Shelmiere and we primarily went to him. I will tell you now --

MR. KELMINSON: I don't want you to get into details about what you talked about.

THE WITNESS: Okay. Can I tell him why we

went to him?

MR. KELMINSON: Yes, that's fine.

THE WITNESS: We went to him to kind of prepare ourselves that in the worst case scenario, a failure of Verto, that we had somebody kind of prequalified to represent us and our clients to claim the collateral. And Mr. Shelmiere agreed to be that person after reading everything.

And so in the conversations with him, we had comfort in this whole process.

BY MR. KAUFMAN:

Q Well, I mean, it is not clear to me whether you are asserting privilege or not here, so I mean, I'm not really sure what you are saying.

Are you saying -- and if you are asserting privilege, go ahead -- but are you saying that you got legal advice from Mr. Shelmiere prior to this time, prior to November 21st, 2013, on this issue regarding whether the Verto Notes were securities?

MR. KELMINSON: You can answer that.

A Yes.

BY MR. KAUFMAN:

Q What did he say?

MR. KELMINSON: We're going to assert privilege on the substance of any communications with

David Shelmiere on that topic.

MR. KAUFMAN: Okay.

BY MS. VAKIENER:

Q Sorry. When did you retain Mr. Shelmiere?

A You know, I'm sorry, I cannot tell you. I don't have those documents with me.

Q Was it before November 21st, 2013?

A Yes.

BY MR. HULL:

Q What prompted you to reach out to David Shelmiere?

A May I say common sense.

Q Is there something that triggered you going out to seek Mr. Shelmiere's advice?

A Simply that we wanted to give peace of mind to investors that if there ever came the unlikely event that collateral needed to be claimed, we were prepared to help them and that we had an attorney who said this is valid, this is a good legal offering of collateral claiming.

MR. KELMINSON: And I don't want you to get into details about what you and David talked about.

THE WITNESS: Okay.

BY MR. KAUFMAN:

Q Let me just ask you. To your knowledge did

Mr. Shelmiere have any background in securities laws?

A I can't say.

BY MR. HULL:

Q You mentioned a couple of other things in your previous response. You mentioned that you conducted your own study, which included looking at SEC materials that defined certain exemptions; was that right?

A Yes, sir.

Q Mr. Leeman, how did you go about conducting that search for SEC materials?

A Either online, I would say primarily online. There's more than a little information that can be found with a search online, both from law firms throughout the country, as well as SEC documents and definitions.

Q Did you talk to Mr. Rose about what you had found out?

A Oh, certainly.

Q To your knowledge did he conduct his own research?

A Yes.

Q Did you ever consider that Mr. Schantz' interest in terms of whether the Nine Month Notes were securities, did you ever consider whether Mr. Schantz'

interest might differ from yours?

A No.

Q To your knowledge, who besides you, Mr. Rose, Retirement Surety and Crescendo, who else was selling the Nine Month Verto Notes?

A I cannot say. I do not know.

Q To your knowledge did Mr. Schantz sell any of the Nine Month Verto Notes?

A I do not know.

Q Mr. Leeman, you are a licensed insurance broker?

A Correct.

Q Was it your belief that the Nine Month Verto Notes were an insurance product?

A No, sir.

Q How would you characterize the Nine Month Verto Notes then?

A As an alternative investment.

Q As an alternative to what?

A To securities that are commonly sold, such as stocks and bonds, mutual funds.

Q And for you to sell those alternatives that you have just described, would you need a license?

A It depends. Some of them certainly, but we felt this had the exemptions that are defined to our

mind very clearly.

Q Did you consider Retirement Surety to be an agent of Verto Capital?

A That phrase would not have entered my mind, no.

Q Did you consider Retirement Surety to be a representative of Verto?

A I would need to understand the definition of the term "representative." Loosely? Yes. Legally? No.

Q How would you describe your relationship, Retirement Surety's relationship to Verto Capital Management?

A We were a marketing arm, finders. The commitment was not with us. We were only providing people with whom -- who would make a commitment with Verto.

Q In other words, the commitment was between Verto and investors?

A Correct.

BY MR. KAUFMAN:

Q And you received a commission when that sale occurred?

A Or a finder's fee.

Q Okay. And how much was that fee?

A Over all it was 7 percent.

Q Isn't it fair to say that you were acting as brokers for Verto in selling the note?

A Well, again, I don't know the meaning of the word "brokers." I would not characterize it in the same sense that a licensed security agent is a broker.

Q And why is that?

A Well, I'm not a security agent, so I can't really say entirely, but I think there's probably a greater level of fiduciary responsibility if you have a securities license. We were finders.

BY MR. HULL:

Q Mr. Leeman, you are an insurance broker, correct?

A You know, they never used the word "broker."

Q You are an insurance agent?

A That would be accurate.

Q When you sell insurance to eventual insurance holders, how do you get paid?

A They provide us a commission, insurance company does.

Q And who pays that?

A It doesn't come out of the client's investment, as does security people, who get a commission out of an investor's money. To me there is

a difference.

Q As to the Verto Notes, similarly Verto paid you, correct?

A That is correct.

Q And Verto paid you a percentage of the amount of notes that you helped sell to investors?

A That's correct.

Q That percentage was 7 percent; is that correct?

A Yes.

BY MS. VAKIENER:

Q Did David Shelmiere represent you individually or did he represent Retirement Surety or Crescendo? Who was the attorney/client relationship with?

A Crescendo.

Q And was there a retention agreement between David Shelmiere and Crescendo?

A That's correct.

Q And what period of time did the attorney/client relationship exist?

A I would assume from the day that we hired him until today.

Q And when did you hire him, approximately?

A Oh, I'm going to guess late 2013.

Q And did he charge you legal fees in connection with the Verto Note Program advice he provided?

A Yes.

Q And how much did he charge for that legal advice?

A Too much. I'm sorry, I didn't mean to be flip.

I don't remember, you know. Thousands.

BY MR. KAUFMAN:

Q What was he retained to do for you, Mr. Shelmiere, without exposing specific communications? What was the purpose of the retention?

A As I said before, if, God forbid, there was a failure of Verto to pay as promised, he would be our man to serve Crescendo and our clients to claim the collateral as promised, if we needed that.

Q So it is fair to say he wasn't retained to give you any legal advice about the security laws; is that fair to say?

A That's fair to say.

MS. VAKIENER: Court Reporter, can you please hand Mr. Leeman Verto Exhibit 51.

(SEC Exhibit No. 51 was marked for identification.)

PROOFREADER'S CERTIFICATE

In the Matter of: VERTO CAPITAL MANAGEMENT, LLC

Witness: David Leeman

File Number: NY-09269-A

Date: Friday, March 11, 2016

Location: Fort Worth, TX 76102

This is to certify that I, Donna S. Raya, (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

(Proofreader's Name) (Date)

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

I, Sarah Mae Blackburn, Certified Shorthand Reporter, hereby certify that this transcript of the preceding 219 pages is a complete, true, and accurate transcript of the testimony indicated, held on Friday, March 11, 2016, at the Securities and Exchange Commission, in the matter of Verto Capital Management, LLC, File Number NY-09269-A.

I further certify that this proceeding was recorded by me and that the foregoing transcript has been prepared under my direction.

Date:_____

Official Reporter:_____

Sarah Mae Blackburn, CSR

Diversified Reporting Services, Inc.

EXHIBIT D

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10387 / July 6, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 81088 / July 6, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18062

In the Matter of **Randal Wallis,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Randal Wallis ("Wallis").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act, Making Findings and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this order and Respondent's Offer, the Commission finds[1] that Respondent violated Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act by acting as an unregistered broker in transactions involving unregistered purchases and sales of securities in the form of 7% promissory notes issued by Verto Capital Management LLC (the "Verto Notes").

A. RESPONDENT

1. Randal Wallis, 63, is a resident of Pottsboro, Texas. At all relevant times, Wallis was associated with Retirement Surety and a representative of Crescendo Financial. Wallis purports to be licensed as an insurance agent in Texas. Wallis does not hold any securities licenses and has never been registered as, or associated with, a registered broker-dealer.

B. RELEVANT ENTITIES AND INDIVIDUALS

2. Retirement Surety LLC ("Retirement Surety") is a Texas limited liability company formed on February 5, 2010 and based in Plano, Texas. According to its website, Retirement Surety is an organization comprised of a group of "state licensed partners" who provide investment advice for retirement planning. From at least 2013 through 2015, Retirement Surety was managed by David Leeman, Thomas Rose, David Featherstone, and Ronald Wills. During that same time period, Wallis was associated with Retirement Surety. Retirement Surety has never been registered as, or associated with, a registered broker-dealer.

3. Crescendo Financial LLC ("Crescendo") is a Texas limited liability company formed on June 18, 2013 and based in Plano, Texas. Crescendo's sole function was to broker the sale of Verto Notes, and it offered no other products. According to its website, Crescendo is an organization comprised of a group of "licensed partners" who sell "investments." At all relevant times, Crescendo was managed by Rose and Leeman, who along with Featherstone, Wallis, and Wills, sold the Verto Notes. Crescendo has never been registered as, or associated with, a registered broker-dealer.

4. William R. Schantz III ("Schantz"), 62, resides in Moorestown, New Jersey. Schantz founded and owns several affiliated corporations, none of which are registered with the Commission, including: Verto Capital Management LLC ("Verto"), Senior Settlements LLC ("Senior Settlements"), Mid Atlantic Financial, LLC ("Mid Atlantic"), and Green Leaf Capital Management, LLC ("Green Leaf"). Schantz is not registered with the Commission and is not affiliated with a registered broker-dealer or investment adviser. He was last associated with an NASD member firm in 2000. In 2002, the NASD sanctioned and suspended Schantz for having brokered the sale of unregistered nine-month promissory notes guaranteed by insurance companies without disclosing the sales to the NASD-member firm with which he was associated. In 2006, Schantz entered into a consent order with the New Jersey Bureau of Securities (for the same

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

conduct) and disgorged $7,000 in commissions he had earned selling the notes. Schantz is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

5. Verto Capital Management LLC ("Verto") is a Delaware Limited Liability Company that Schantz formed in 2009. According to its website, Verto conducts private placement securities offerings to accredited investors, and invests in bundles of life settlements. Verto is an affiliate of Senior Settlements. Verto issued 7% promissory notes that were sold by Wills, Leeman, Rose, Wallis, and Featherstone. Verto is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

C. RESPONDENT SOLD SECURITIES AS AN UNREGISTERED BROKER IN UNREGISTERED TRANSACTIONS

6. From at least October 2014 to October 2016, Respondent acted as a broker for Verto Notes, selling 9 Verto Notes directly to 8 individual investors and receiving commissions from Verto for each Verto Note sale and Forbearance Agreement.

7. In brokering the Verto Note sales, Respondent provided investors with offering materials for the Verto Notes that described Verto's business and the reasons for selling the Verto Notes. The offering materials stated that " [Verto] is engaged in the business of sourcing, valuing and selecting life insurance policies for resale to investors ('Life Settlements')" and "[t]he Note Amount shall be used by [Verto] for general working capital purposes including but not limited to fund [Verto's] purchase and acquisition of life insurance policies." The offering materials also described Verto's "Trading Strategy" as an investment in a common enterprise for profit: "As polices [sic] come to the secondary market, [Verto], together with its affiliate Senior Settlements, LLC, will seek to identify policies that have significant arbitrage opportunities and look to acquire the policy at significant discounts from the potential resale value" and "[Verto's] ability to make scheduled payments on the Promissory Notes outstanding at any particular time depends on [Verto's] financial condition and operating performance, which is subject to the Issuer successfully executing its trading strategy..."

8. The offering materials provided by the Respondent also described the risks of investing in the Verto Notes. The materials stated that "[i]f [Verto] does not generate profits, [Verto] may be unable to repay all the promissory notes then outstanding upon maturity" and described Verto's "Lack of Operating History," stating "Verto is a recently formed entity and has no meaningful operating or financial history . . ."

9. The offering materials provided by the Respondent to investors also stated that "the repayment of the Promissory Notes is secured by a collateral assignment and pledge of all of the Life Settlements owned by the issuer from time-to-time which includes Life Settlements acquired with the proceeds of the note."

10. Respondent regularly participated in all key points in the chain of sale and distribution of the Verto Notes, including soliciting investors to purchase the Verto Notes, advising investors regarding the Verto Notes, handling all necessary paperwork to effectuate the Verto Notes sales, monitoring and managing repayments to investors, and negotiating and arranging so-called "forbearance agreements" between the Verto Note holders and Verto.

11. Retirement Surety and Crescendo solicited Verto Note investors through radio broadcasts and internet postings, and directly from their pool of existing insurance product clients.

12. On radio shows broadcast on at least two radio networks, representatives of Retirement Surety and Crescendo described the Verto Note program and directed radio listeners to the Retirement Surety website. Retirement Surety's website described and solicited investors to purchase the Verto Notes.

13. Similarly, Crescendo's website described and solicited investors to purchase the Verto Notes.

14. In addition, Respondent solicited Verto Note purchases through meetings with, and telephone calls and mailings to, Respondent's pool of previously-existing insurance clients.

15. Respondent earned transaction-based compensation for each Verto Note sale. For each Verto Note that he sold, Respondent earned a 7% commission, 5% of which went to Respondent, and 2% of which went to Crescendo.

16. When Verto was unable to repay investors amounts due under the original Verto Notes, Respondent presented the investors with documents entitled "Forbearance Agreements," which extended the terms of the Verto Notes. For each Forbearance Agreement, Respondent earned an additional 4% commission (on top of their initial 7% sales commission at the time of issuance). Some investors were presented with second "Forbearance Agreements" for which Respondent received another 4% commission on the unpaid outstanding balance.

17. Respondent earned a total of $23,829 in commissions through his Verto Note sales: $15,870 for brokering the initial sales of the Verto Notes, an additional $6,540 for later brokering initial Forbearance Agreements, and an additional $1,419 for brokering secondary Forbearance Agreements for a number of the same Verto Notes.

18. In brokering the Verto Note sales, Respondent also expressly held himself out as an advisor providing investment advice. Retirement Surety's website outlined "five principles for your investments," and in subscriber information forms for certain of the Verto Notes he sold, Wallis listed his relationship to the investor as an "Advisor."

19. The Verto Notes are securities.

20. No registration statement was filed or in effect for the offering and sales of Verto Notes, and no valid exemption from registration existed for the Verto Notes offering.

D. VIOLATIONS

1. As a result of the conduct described above, Respondent violated Securities Act Section 5(a) and (c), which prohibit the direct or indirect sale or offer for the sale of securities unless a registration statement is filed or in effect.

2. As a result of the conduct described above, Respondent violated Exchange Act Section 15(a)(1), which prohibits a broker from making use of the mails or any means or

instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Wallis cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B. Respondent shall pay disgorgement of $23,829, prejudgment interest of $475 and civil penalties of $7,500, to the Securities and Exchange Commission. Payment shall be made in four equal installments of $7,951.00 each, with payment to be received on the following schedule: first payment within 30 days of the issuance of this Order, second payment within 180 days of the issuance of this Order, third payment within 270 days of the issuance of this Order, and fourth payment within 360 days of the issuance of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wallis as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate

Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties referenced in paragraph IV.B above. This Fair Fund may receive the funds from and or be combined with the fair fund established in the related civil action, *SEC v. Verto Capital Management LLC et. al.*, 17-civ-03115 (D. N.J. May 4, 2017), and fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in this proceeding, in order for the combined fair funds to be distributed to harmed investors affected by the violative conduct. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary

EXHIBIT E

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10388 / July 6, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 81089 / July 6, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18063

In the Matter of **Ronald Howard Wills,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Ronald Howard Wills ("Wills").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act, Making Findings and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this order and Respondent's Offer, the Commission finds[1] that Respondent violated Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act by acting as an unregistered broker in transactions involving unregistered purchases and sales of securities in the form of 7% promissory notes issued by Verto Capital Management LLC (the "Verto Notes").

A. RESPONDENT

1. Ronald Howard Wills, 71, is a resident of McKinney, Texas. At all relevant times, Wills was a partner of Retirement Surety LLC and a representative of Crescendo Financial LLC. Wills purports to be licensed as an insurance agent in Texas. Wills does not hold any securities licenses and has never been registered as, or associated with, a registered broker-dealer.

B. RELEVANT ENTITIES AND INDIVIDUALS

2. Retirement Surety LLC ("Retirement Surety") is a Texas limited liability company formed on February 5, 2010 and based in Plano, Texas. According to its website, Retirement Surety is an organization comprised of a group of "state licensed partners" who provide investment advice for retirement planning. From at least 2013 through 2015, Retirement Surety was managed by Wills, David Leeman, Thomas Rose, and David Featherstone. During that same time period, Randall Wallis was associated with Retirement Surety. Retirement Surety has never been registered as, or associated with, a registered broker-dealer.

3. Crescendo Financial LLC ("Crescendo") is a Texas limited liability company formed on June 18, 2013 and based in Plano, Texas. Crescendo's sole function was to broker the sale of Verto Notes, and it offered no other products. According to its website, Crescendo is an organization comprised of a group of "licensed partners" who sell "investments." At all relevant times, Crescendo was managed by Rose and Leeman, who along with Featherstone, Wallis, and Wills, sold the Verto Notes. Crescendo has never been registered as, or associated with, a registered broker-dealer.

4. William R. Schantz III ("Schantz"), 62, resides in Moorestown, New Jersey. Schantz founded and owns several affiliated corporations, none of which are registered with the Commission, including: Verto Capital Management LLC ("Verto"), Senior Settlements LLC ("Senior Settlements"), Mid Atlantic Financial, LLC ("Mid Atlantic"), and Green Leaf Capital Management, LLC ("Green Leaf"). Schantz is not registered with the Commission and is not affiliated with a registered broker-dealer or investment adviser. He was last associated with an NASD member firm in 2000. In 2002, the NASD sanctioned and suspended Schantz for having brokered the sale of unregistered nine-month promissory notes guaranteed by insurance companies without disclosing the sales to the NASD-member firm with which he was associated. In 2006,

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Schantz entered into a consent order with the New Jersey Bureau of Securities (for the same conduct) and disgorged $7,000 in commissions he had earned selling the notes. Schantz is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

5. Verto Capital Management LLC ("Verto") is a Delaware Limited Liability Company that Schantz formed in 2009. According to its website, Verto conducts private placement securities offerings to accredited investors, and invests in bundles of life settlements. Verto is an affiliate of Senior Settlements. Verto issued 7% promissory notes that were sold by Wills, Leeman, Rose, Wallis, and Featherstone. Verto is currently a defendant in *SEC v. Schantz, et al.,* Case No. 17-cv-03115.

C. RESPONDENT SOLD SECURITIES AS AN UNREGISTERED BROKER IN UNREGISTERED TRANSACTIONS

6. From at least September 2013 to October 2014, Respondent acted as a broker for Verto Notes, selling 5 Verto Notes directly to 5 individual investors and receiving commissions from Verto for each Verto Note sale.

7. In brokering the Verto Note sales, Respondent provided investors with offering materials for the Verto Notes that described Verto's business and the reasons for selling the Verto Notes. The offering materials stated that " [Verto] is engaged in the business of sourcing, valuing and selecting life insurance policies for resale to investors ('Life Settlements')" and "[t]he Note Amount shall be used by [Verto] for general working capital purposes including but not limited to fund [Verto's] purchase and acquisition of life insurance policies." The offering materials also described Verto's "Trading Strategy" as an investment in a common enterprise for profit: "As polices [sic] come to the secondary market, [Verto], together with its affiliate Senior Settlements, LLC, will seek to identify policies that have significant arbitrage opportunities and look to acquire the policy at significant discounts from the potential resale value" and "[Verto's] ability to make scheduled payments on the Promissory Notes outstanding at any particular time depends on [Verto's] financial condition and operating performance, which is subject to the Issuer successfully executing its trading strategy..."

8. The offering materials provided by the Respondent also described the risks of investing in the Verto Notes. The materials stated that "[i]f [Verto] does not generate profits, [Verto] may be unable to repay all the promissory notes then outstanding upon maturity" and described Verto's "Lack of Operating History," stating "Verto is a recently formed entity and has no meaningful operating or financial history . . ."

9. The offering materials provided by the Respondent to investors also stated that "the repayment of the Promissory Notes is secured by a collateral assignment and pledge of all of the Life Settlements owned by the issuer from time-to-time which includes Life Settlements acquired with the proceeds of the note."

10. Respondent regularly participated in all key points in the chain of sale and distribution of the Verto Notes he sold, including soliciting investors to purchase the Verto Notes, advising investors regarding the Verto Notes, handling all necessary paperwork to effectuate the Verto Notes sales, and monitoring and managing repayments to investors.

11. Retirement Surety and Crescendo solicited Verto Note investors through radio broadcasts and internet postings, and directly from their pool of existing insurance product clients.

12. On radio shows broadcast on at least two radio networks, representatives of Retirement Surety and Crescendo described the Verto Note program and directed radio listeners to the Retirement Surety website. Retirement Surety's website described and solicited investors to purchase the Verto Notes.

13. Similarly, Crescendo's website described and solicited investors to purchase the Verto Notes.

14. In addition, Respondent solicited Verto Note purchases through meetings with, and telephone calls and mailings to, Respondent's pool of previously-existing insurance clients.

15. Respondent earned transaction-based compensation for each Verto Note sale. For each Verto Note that he sold, Respondent earned a 7% commission, 5% of which went to Respondent, and 2% of which went to Crescendo.

16. Respondent earned a total of $13,340 in commissions through his Verto Note sales.

17. In brokering the Verto Note sales, Respondent also expressly held himself out as an advisor providing investment advice. Retirement Surety's website outlined "five principles for your investments," and in subscriber information forms for certain of the Verto Notes he sold, Wills listed his relationship to the investor as an "Advisor."

18. The Verto Notes are securities.

19. No registration statement was filed or in effect for the offering and sales of Verto Notes, and no valid exemption from registration existed for the Verto Notes offering.

D. VIOLATIONS

1. As a result of the conduct described above, Respondent violated Securities Act Section 5(a) and (c), which prohibit the direct or indirect sale or offer for the sale of securities unless a registration statement is filed or in effect.

2. As a result of the conduct described above, Respondent violated Exchange Act Section 15(a)(1), which prohibits a broker from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities without first being registered as or associated with a registered broker-dealer.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Wills cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B. Respondent Wills shall pay disgorgement of $10,000, prejudgment interest of $861 and civil penalties of $7,500 to the Securities and Exchange Commission. Payment shall be made in four equal installments of $4,590.25 each, with payment to be received on the following schedule: first payment within 30 days of the issuance of this Order, second payment within 180 days of the issuance of this Order, third payment within 270 days of the issuance of this Order, and fourth payment within 360 days of the issuance of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wills as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281.

C. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the penalties referenced in paragraph IV.B above. This Fair Fund may receive the funds from and or be combined with the fair fund established in the related civil action, *SEC v. Verto Capital Management LLC et. al.*, 17-civ-03115 (D. N.J. May 4, 2017), and fair funds established for civil penalties paid by other respondents for conduct arising in relation to the violative conduct at issue in this proceeding, in order for the combined fair funds to be distributed to harmed investors affected by the violative conduct. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all

purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on December 22, 2017, a true and correct copy of the foregoing was sent in the manner indicated below upon the following:

VIA ELECTRONIC MAIL
Honorable Cameron Elliot
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
Via email to alj@sec.gov (courtesy copy)

VIA UPS
Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

VIA ELECTRONIC MAIL
Jeffrey Ansley
Greg Kelminson
Bell Nunnally
3232 McKinney Ave. Suite 1400
Dallas, Texas 75204
Counsel for Respondents Retirement Surety, LLC, Crescendo Financial LLC, Thomas Rose, David Leeman and David Featherstone
jansley@bellnunnally.com
gkelminson@bellnunnally.com

Jennifer K. Vakiener