

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CASE NO.: 8:20-cv-00394

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 KINETIC INVESTMENT GROUP, LLC and)
 MICHAEL SCOTT WILLIAMS,)
)
 Defendants, and)
)
 KINETIC FUNDS I, LLC,)
 KCL SERVICES, LLC d/b/a LENDACY,)
 SCIPIO, LLC,)
 LF42, LLC,)
 EL MORRO FINANCIAL GROUP, LLC, and)
 KIH, INC. f/k/a KINETIC INTERNATIONAL, LLC,)
)
 Relief Defendants.)
)

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S EMERGENCY
MOTION AND MEMORANDUM OF LAW FOR APPOINTMENT OF RECEIVER**

Plaintiff Securities and Exchange Commission moves for an Order appointing a Receiver over Defendant Kinetic Investment Group, LLC (“Kinetic Group”) and Relief Defendants Kinetic Funds I, LLC, KCL Services, LLC d/b/a Lendacy, Scipio, LLC, LF42, LLC, El Morro Financial Group, LLC, and KIH, Inc. f/k/a Kinetic International, LLC (collectively, “Relief Defendants”), with full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, choses in action, and any other property of Kinetic Group and Relief Defendants; marshal and safeguard Kinetic Group’s and

Relief Defendants' assets; and take whatever actions are necessary for the protection of investors.

I. FACTUAL BACKGROUND

The Commission incorporates the factual discussion in its Emergency Motion and Memorandum of Law for Asset Freeze and Other Relief ("Asset Freeze Memo").

II. APPOINTMENT OF A RECEIVER OVER KINETIC GROUP AND THE RELIEF DEFENDANTS IS APPROPRIATE

The appointment of a receiver is a well-established equitable remedy available to the Commission in civil enforcement proceedings. *See, e.g., SEC v. First Financial Group of Texas*, 645 F.2d 429, 438 (5th Cir. 1981); *see generally* Section 22(a) of the Securities Act of 1933, 15 U.S.C. § 77(v)(a); and Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa. Appointing a receiver is particularly appropriate in cases where a defendant, through its management, has defrauded members of the investing public. *Id.* In such cases, without the appointment of a receiver to maintain the *status quo*, the investor assets will be subject to diversion and waste to the detriment of those who were induced to invest in the scheme. *First Financial*; 645 F.2d at 438; *see also SEC v. R.J. Allen & Associates, Inc.*, 386 F. Supp. 866, 878 (S.D. Fla. 1974). A receiver is appropriate to protect the public interest when it is obvious that those in control of an entity who have inflicted serious detriment in the past must be ousted. *SEC v. Bowler*, 427 F.2d 190, 198 (4th Cir. 1970).

As detailed in the Asset Freeze Memo, Kinetic Group and its principal, Defendant Michael Scott Williams ("Williams"), have raised at least \$39 million from investors in an unregistered fraudulent securities offering. Relief Defendants have collectively received at least \$9.1 million net of that money. A receiver is necessary to attempt to recover investor

funds and act in the best interest of investors. These tasks clearly cannot be left to Williams, who remains in control of Kinetic Group and Relief Defendants and who is responsible for the fraud. A receiver is also needed to evaluate the securities owned by Kinetic Group and determine whether they should be held or liquidated, and to conduct an orderly wind down of the affairs of Kinetic Group and Relief Defendants.

III. COMMISSION'S RECEIVER RECOMMENDATION

The Commission's staff has solicited expressions of interest from two potential receivers it believes are well-suited to handle this matter, and attaches the credentials of these candidates as Exhibits A and B to this motion. After considering these candidates, the Commission's staff believes the interests of defrauded investors would best be served by appointing Mark A. Kornfeld to serve as Receiver over Kinetic Group and Relief Defendants. Mr. Kornfeld, whose credentials are attached as Exhibit A, is a partner of the Quarles & Brady LLP law firm, with nearly 25 years of extensive experience in securities litigation and asset recovery. He was one of the core team leaders representing the Court-appointed trustee in connection with the global Ponzi scheme perpetrated by Bernard Madoff. Among other duties in that role, he served as the first chairperson of the Settlement Committee in which he advised and aided the trustee in realizing billions in settlement recoveries for defrauded victims.

If appointed as Receiver, Mr. Kornfeld intends to have significant involvement in all tasks required to efficiently resolve the issues related to this matter. Mr. Kornfeld and the firm have agreed to a discount of their normal hourly rates. Mr. Kornfeld will charge \$437.50 per hour, his partners will charge between \$380.00 to \$395.00 per hour, his associates will charge between \$230.00 to \$295.00 per hour, and his paralegals will charge no more than \$200.00 per

hour. He has advised us he has no conflict of interest and is ready, willing, and able to serve as Receiver.

Therefore, the Commission recommends Mr. Kornfeld, who has the capability and experience necessary for carrying out the tasks that will be required of the Receiver and has indicated a willingness to serve. As the Commission indicated previously, the Commission has identified another candidate who is also well-qualified and has no conflict of interest. Accordingly, if the Court does not agree with the Commission's recommendation, the Commission suggests the Court consider the alternative candidate whose credentials are attached.

IV. CONCLUSION

For the foregoing reasons, the Commission requests that the Court grant its emergency request for the appointment of a Receiver over Kinetic Group and Relief Defendants and appoint Mark A. Kornfeld, or other suitable person, as Receiver over these entities.

February 20, 2020

Respectfully submitted,

By: /s/ Christine Nestor & Stephanie N. Moot

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February 18, 2020

VIA EMAIL

Eric I. Bustillo, Regional Director
Stephanie O. Moot, Trial Counsel
Andrew O. Schiff, Regional Trial Counsel
Securities and Exchange Commission
Miami Regional Office
801 Brickell Avenue, Suite 1800
Miami, FL 33131

RE: Proposal Regarding Receiver and Receiver's Counsel
for Kinetic Financial Group, et al.

Dear Mr. Bustillo, Ms. Moot, and Mr. Schiff:

Per our recent phone call, and the Commission's request, please accept this letter as Quarles & Brady, LLP's ("Quarles" or the "Firm") formal proposal to serve as Receiver and Receiver's lead counsel with regards to the Commission's plan to file an Enforcement Action against the above-referenced parties. The Firm respectfully submits that if selected, it will work tirelessly to achieve timely success on behalf of defrauded customers and the overall public interest.

Quarles has cleared all necessary conflicts, and thus the following information is provided to the Commission in furtherance of the Firm's bid to serve the anticipated Receivership. Thank you for the Commission's consideration of Quarles in connection with this important matter. We look forward to the potential opportunity to work closely with you both.

I. Quarles & Brady LLP

Quarles is an over one hundred-year old, full-service law Firm with eleven offices strategically located across the country, including in Tampa, Naples, Washington D.C and Chicago. The Firm prides itself on its national and international reputation for delivering elite, platinum-level, client service efficiently and at exceptional value. The Firm is a national leader when it comes to project management, is sharply focused on appropriate staffing levels and billing and cost discipline, and is deeply committed to serving the public interest.

Eric I. Bustillo, Regional Director
Stephanie O. Moot, Trial Counsel
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The Firm has about three dozen attorneys across its Florida offices (and approximately 500 nationwide). The lawyers at the Firm also work collaboratively and seamlessly across offices when strategically appropriate in order to leverage decades of specialized expertise and experience in asset recovery, bankruptcy, complex commercial, enforcement, financial services, receivership and securities-related litigation.

In short, the Firm is well-positioned and poised to effectively serve the Commission with a diverse, talented and experienced team of skilled practitioners.

II. The Proposed Receiver: Mark Kornfeld

I am a Partner at the Firm with nearly three decades of experience serving clients at the very highest levels. During that time, I have developed multi-faceted, diverse professional experience and expertise spanning a wide range of subject matters including: asset recovery, bankruptcy, broker-dealer, cross-border and international, investment adviser and management fraud, regulatory, and securities related litigation matters, including matters arising under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Advisers and Company Acts of 1940. I have, over the course of my career, been able to achieve great success for clients and defrauded victims, by being cost-effective, nimble and strategic in resolving disputes ranging five to ten figures in scope.

Prior to joining Quarles as the National Co-Chair of the Securities Litigation and Regulatory Enforcement Group (as well as the head of Securities Litigation for our Tampa office), I had the privilege and distinction for nearly nine years of being one of the core team leaders representing the Court-appointed Trustee, Irving Picard, in connection with the global Ponzi scheme perpetrated by Bernard L. Madoff. I had significant responsibility overseeing the exhaustive factual investigation that ultimately resulted in the complex task of coordinating the timely filing of more than one thousand lawsuits. I served the Trustee as the first chair of the Expert Committee, where I led the analysis, billing, conflicts, diligence, retention and strategy associated with the analyses, reports and services being provided by numerous consultants and testifying expert witnesses across the Trustee's litigations.

I also served the Trustee's global recovery initiative as the first chairperson of the Settlement Committee in which role I advised, counseled, and aided the Trustee and his lead counsel in realizing billions in settlement recoveries for defrauded victims, as nearly ten billion in settlements were executed and received into the Customer Fund within the first few years of the Trustee's appointment. I also personally led and directly supervised many high-stakes, cross-border litigations resulting in important settlements for the Trustee.

Eric I. Bustillo, Regional Director
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I believe that in addition to years of substantive expertise, a core strength that I would bring if selected here as the Receiver is the aptitude and experience for quickly analyzing and marshaling significant assets on behalf of the defrauded. Both I and our team will work quickly and cost effectively to maximize returns for victims.

My standard billing rate is \$625 per hour. If I am appointed as Receiver I shall gladly reduce that rate as an accommodation and public interest discount to the Commission by 30% to \$437.50 per hour.

III. The Receiver's Counsel

If selected to serve as Receiver I plan to retain Quarles. The Quarles attorneys who would staff this engagement and work with me have decades of collective experience both representing and serving as receivers in SEC and other non-regulatory fraud and investment management and advisory matters, as well as effectively serving as, and representing trustees in myriad bankruptcy matters.

The staffing for this matter will be drawn principally from our Tampa office and shall include (without limitation) Jordan D. Maglich, Kelli Edson, Zachary Foster, Jessica Vander Velde, Drew O'Malley, and Bradley Crocker, as well as case managers and paralegals Nichole Perez and Rebecca Wilt.

Given the location of assets and victims in Puerto Rico, I also expect to use Luke Cass from the Firm's Washington D.C. office. Mr. Cass previously spent 7 years stationed in San Juan, Puerto Rico while serving as Assistant United States Attorney prosecuting white collar and financial fraud criminal cases. Mr. Cass has frequently litigated in Puerto Rico courts and has robust experience working closely and collaboratively with federal agencies on the island. Importantly, Mr. Cass is fluent in Spanish.

I would also if, and as deemed strategically appropriate, involve the Firm's National Chair of the Bankruptcy Practice Group, Isaac M. Gabriel (who is fluent in Spanish), as well as experienced receivership and bankruptcy practitioners Faye Feinstein and Lauren Beslow from the Firm's Chicago offices.

I anticipate that Mr. Maglich would serve as lead counsel given his significant experience and successes representing court-appointed receivers in both Florida state and federal courts. Mr. Maglich spent eight years representing the Receiver appointed by the Commission over Mr. Arthur Nadel's \$350 million Ponzi scheme, also arising out of Sarasota, Florida, and he has also represented court-appointed receivers in a number of other different matters, including without limitation, consumer frauds, medical factoring Ponzi schemes, a luxury coach investment scheme,

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and an interest rate reduction scheme. The efforts of Mr. Maglich and his co-counsel in those receiverships have resulted in the recovery of tens of millions of dollars for defrauded victims. Mr. Maglich has demonstrated and been recognized over his career for his substantive depth and national expertise in investment management and adviser fraud, Ponzi schemes, and asset recovery matters for victims of fraud.

Kelli Edson is a former Assistant District Attorney with many years of successful experience handling and serving as lead trial counsel for complex commercial and securities related litigations throughout federal and state courts in Florida including the Middle District of Florida. Mr. Crocker, Ms. Vander Velde, Mr. Foster, and Mr. O'Malley similarly have substantial commercial litigation experience in the Middle District of Florida.

The Firm is also pleased to offer the Commission a substantial courtesy and public interest discount on the hourly rates for all attorneys staffed to the matter:¹

<u>Attorney</u>	<u>Standard Rate</u>	<u>Proposed Rate</u>
Jordan D. Maglich	\$375/hr	\$295/hr
Kelli Edson	\$515/hr	\$395/hr
Luke Cass	\$545/hr	\$380/hr
Zachary Foster	\$350/hr	\$265/hr
Drew O'Malley	\$330/hr	\$270/hr
Bradley Crocker	\$330/hr	\$270/hr
Jessica Vander Velde	\$300/hr	\$230/hr

I respectfully submit the background information and bios for each of the aforementioned attorneys as Exhibit 1 to this letter for your consideration. I also submit exemplars of the Firm's Receivership Experience in Florida as experience as Exhibit 2 to this letter.

IV. Proposed Courses of Action.

The following is a broad, general summary of the initial measures we would take if I am selected to serve as Receiver:

1. Efficiently and thoroughly secure any and all assets and records belonging to the Receivership entity.

¹ These proposed discounted rates are subject to annual 4% increases (after Court approval) effective October 1, 2020.

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2. Prioritize the investigation of the company operations in light of the Commission's expected allegations and make an initial determination as to whether the company(ies) can be lawfully and sufficiently operated.
3. Make a preliminary determination as to whether additional assets exist in the hands of third parties. If so, work with counsel to assess whether we need to seek judicial relief to quickly secure and preserve those assets and assess the viability of bringing third-party claims.
4. If the business cannot be lawfully operated, we will implement a plan to efficiently wind down the business while simultaneously, and in parallel, work to preserve all assets that can be managed or marshaled for the benefit of the Receivership Estate.
5. As necessary, formulate a timely plan for court approval of a mechanism to return funds to defrauded victims with approved claims.
6. We will ensure that in pursuing any course of action to at all times avoid any action that results in any waste or inefficiency as relates to the resources of the Estate.

The Firm is strategically conscious that efficient performance which eliminates unnecessary expenses is directly related to maximizing the potential recovery for victims. We are equally aware of and greatly value the public service elements being performed for victims.

V. EXPERT ASSISTANCE

To the extent accounting and/or forensic analysis services shall be required during the course of this engagement (which we anticipate), both Mr. Maglich and I, along with other members of the Firm, have long-standing professional relationships with numerous, first-class consultants and experts we can and will retain, depending on the size and the scope of the services that are needed. By way of example, the Receiver would consider engaging the firm Yip & Associates based on the prior successful experiences of Mr. Maglich in prior receivership matters with that firm's principal Ms. Maria Yip. The standard hourly rates for Yip and Associates prior to any public interest, courtesy discount are \$495 for Partners, \$350 for Directors, \$300 for Managers, \$245 for Senior Associates and \$195 for Associates. The Firm is also able to leverage its national reach should it be necessary to engage additional professionals in other regions.

Quarles also has key relationships with investigators, asset managers, forensic information technology specialists, certified fraud examiners, international law firms as needed and eDiscovery

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specialists often required in Receivership matters. As part of our proposed course of action we shall identify what if any needs exist to retain other third-party experts or service providers, and then interview, negotiate and execute terms and conditions with any such providers.

Thank you again for the opportunity to submit this proposal. Please feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Kornfeld", with a long, sweeping horizontal line extending to the right.

Mark Kornfeld

cc: Jordan D. Maglich, Esq. (w/o enc.)

Mark A. Kornfeld

Partner

Mark Kornfeld is Co-Chair of Quarles & Brady's Securities Litigation Team and is a seasoned commercial litigator with nearly 25 years of success in securities litigation, regulatory action and complex commercial litigation both domestically and internationally. Mark draws from his years of high-stakes litigation experience to inform his advice and counsel for clients. He always approaches his clients' current matters as a trusted adviser who appreciates and understands his clients' businesses. Mark quickly analyzes the different variables in complex disputes and how they will impact his clients, providing multilayered and practical, strategic advice to those clients across industries. Mark also serves as Chair of the Tampa Office Securities Litigation Team and Chair of the Tampa Office Business Development Committee.

For nearly a decade, Mark was integrally involved in court-appointed representation of Securities Investor Protection Act (SIPA) Trustee Irving H. Picard for the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS) in efforts to recover assets for the Fund of Customer Property. Mark worked extensively on litigating complex legal issues and assisting the SIPA Trustee in unraveling the maze of interconnected parties involved in Madoff's decades-long Ponzi scheme, including serving as the Chair of the Settlement and Expert committees, as well as leading litigation teams involving billions in settlements and litigations involving international feeder funds, investment managers, and other financial institutions. Mark was only a handful of attorneys in the world to have interviewed the disgraced financier in prison as part of the Trustee's investigation into the Ponzi scheme.

In addition, Mark is a skilled and trusted dispute resolution expert, who advises, manages and counsels an array of clients and industries, including, investment bankers, managers, hedge funds, fund of funds, the financial services industry, media companies, start-ups, construction and real estate developers, Fortune 500 and private equity companies, and executives, officers and directors, prior to and upon the commencement of high-stakes litigation. Mark is routinely sought out by members of the media for comments on high-profile litigation and regulatory enforcement matters arising from Ponzi schemes, insider trading and other economic frauds.

Select Experience

- Leading role in the worldwide investigation and asset recovery efforts being conducted by the SIPA Trustee for the benefit of BLMIS customers with allowed claims. Led multibillion-dollar lawsuits involving feeder funds and leverage providers. Also, led a



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complex litigations involving the use of derivatives and other exotic leverage products during Madoff's decades-long Ponzi scheme. Was a Core Captain, head of the Settlement and Expert Committees, played a key role in the strategic planning for all litigation, coordinating discovery, expert witnesses and settlement negotiations. Negotiated in excess of \$3b in settlements procured by the SIPA Trustee.

- Led a Financial Industry Regulatory Authority (FINRA)-regulated broker-dealer client and its parent (and executives) to a successful, pre-complaint settlement after receipt of Wells Notices of charges by FINRA arising out of a multimillion-dollar minimum-maximum offering and the breaking of escrow related to it. The matter was resolved with no charges against the individuals.
- Successfully defended a securities class action arising out of a \$4.5 billion acquisition and the merger consideration paid thereunder, including substantial motion practice before the U.S. District Court, Eastern District of New York, and winning a motion to dismiss and litigation of class certification issues before the Second Circuit. This post-merger securities fraud class action related to the calculation of merger consideration in connection with the post-closing conditions precedent and ultimately was settled for a fraction of the demand in the complaint.
- Represented a global financial services firm in connection with discovery arising out of and in connection with the ongoing Caesars Operating Co. multibillion-dollar bankruptcy proceedings.
- Represented a market-maker in connection with a regulatory investigation and civil class actions seeking upward of \$800 million in damages relating to allegations against the company involving false marks for illiquid securities.
- Represented an investment manager in connection with a Securities and Exchange Commission inquiry into alleged improprieties in supervisory and other trading practices. The client was successfully absolved of any wrongdoing.
- Represented \$1 billion environmental and water rights investment funds in a series of domestic and international commercial litigation, arbitrations and mediations. Provided advice and representation on contract, tortious interference, employment litigation, private equity, bankruptcy and other transactional matters, as necessary. Successfully had dismissed a tortious interference with business relationship claim against a company and its principal.
- Represented a major owner and commercial real estate developer in construction cross-litigation for errors and omissions against subcontractors and a construction manager. The case was settled for the client for a fraction of the initial demand following aggressive litigation in discovery and mediation efforts

demonstrating that the client was not liable for the alleged damages.

- Represented a major media publication in construction litigation brought against a design builder, as well as commercial litigation against equipment and system vendors and a landlord. Obtained settlement recoveries of more than eight figures for the client through demonstrated understanding of issues and diligence.
- Represented a major accounting firm in a professional malpractice case related to subprime lender audit practices. The case was settled favorably for the client after years of litigation due in part to the executed litigation strategy and key admissions that were elicited during the deposition process.
- Represented a company and its executives in securities class actions and regulatory investigations arising out of allegations of false financial statements, backdating revenues and other revenue recognition allegations. Successfully resolved the case after years of litigation for a fraction of the initial demand.

Legal Services

- [Litigation & Dispute Resolution](#)
- [Real Estate and Construction Litigation](#)
- [Securities and Shareholder Litigation](#)
- [Financial Institutions Litigation](#)

Education and Honors

- Brooklyn Law School (J.D., *magna cum laude*, 1992)
- Vassar College (B.A., 1989)

Bar Admissions

- Florida
- New York

Court Admissions

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York
- U.S. Court of Appeals, 2nd Circuit

Professional and Civic Activities

- New York State Bar Association
 - Commercial Section
 - Alternative Dispute Resolution Section
 - International Section

Professional Recognition

- The Legal 500 United States (2015, 2016)
 - Recommended in Dispute Resolution: Securities litigation – defense
- New York Metro "Super Lawyer" (2011 to 2017)

Jordan D. Maglich

Associate

Jordan Maglich is a member of the Litigation and Dispute Resolution Practice Group where his practice focuses on commercial litigation, securities and financial services, and regulatory matters.

Mr. Maglich regularly practices in arbitration forums and state, federal, and bankruptcy courts in matters involving a wide variety of civil disputes and other business-related litigation. Jordan also regularly represents securities broker/dealers, investment advisors, and their associated persons in federal and state court and in arbitration. In addition to handling disputes brought by former customers or associated persons, Jordan has also obtained various affirmative relief for financial services firms including injunctive relief to prevent non-customers from proceeding in arbitral forums as well as the recovery of transition and incentive payments to departed registered representatives.

Mr. Maglich has significant experience handling regulatory matters. In addition to counseling and defending individuals and entities facing regulatory inquiries, subpoenas, and investigations by state and federal agencies including the Securities and Exchange Commission, Commodity Futures Trading Commission, Florida Office of Financial Regulation, Financial Industry Regulatory Authority, and Department of Justice, Mr. Maglich has also served as lead counsel to court-appointed receivers appointed in connection with regulatory enforcement actions brought by federal and state regulators.

His recent experience has included:

- Representing court-appointed receivers nominated by the SEC, FTC, Florida Office of the Attorney General, and the Florida Office of Financial Regulation. This included marshaling and securing assets as well as pursuing litigation against third parties based on their participation in the scheme or receipt of fraudulent transfers. Through those efforts, victims collectively received at least 50% of their respective allowed claims;
- Identifying, seizing, and liquidating various cryptocurrency assets;
- Defending an affiliate marketer accused of violations of the Commodities Exchange Act through the alleged promotion of binary options;
- Defending individuals in investigations and actions initiated by the SEC involving insider trading, microcap fraud, pump and dump schemes, bond underwriting, registration issues, attorney opinion letters, and the Foreign Corrupt Practices Act;
- Successfully defending a national financial services firm accused of



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violations of Regulation SHO which resulted in denial of plaintiffs' claims after trial;

- Secured major brokerage house's dismissal from FINRA arbitration based on ineligibility of claims;
- Obtaining full repayment of client's six-figure investment in private placement investment over misrepresentations in offering materials;
- Defending broker-dealer and its registered principal in SEC investigation and subsequent administrative proceeding;
- Obtained multiple injunctions enjoining non-customers from compelling brokerage firm's participation in FINRA arbitration;
- Defending individual subpoenaed by DOJ relating to undeclared foreign bank accounts;
- Conducting an internal investigation for a national financial services firm subpoenaed by the Florida Office of Financial Regulation.

Jordan is also the author of Ponzitracker, an internet blog tracking Ponzi schemes available at www.ponzitracker.com.

Legal Services

- [Litigation & Dispute Resolution](#)
- [Data Privacy & Security](#)

Education and Honors

- University of Miami School of Law (J.D., *cum laude*, 2010)
 - Charles C. Papy, Jr. Moot Court (Member, Moot Court Board)
 - Dean's Merit Scholarship (Recipient, 2006-2010)
- University of Miami (M.B.A., 2010)
 - Graduate Assistantship (Recipient, 2008-2010)
- University of Florida (B.S., *cum laude*, 2006)
 - Major: Business Administration
- University of Florida (B.A., 2006)
 - Major: Political Science

Bar Admissions

- Florida

Court Admissions

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. Court of Appeals, 11th Circuit

Professional and Civic Activities

- Federal Bar Association (Member)
- Tampa Bay Chapter of the Federal Bar Association (Executive Board Member)
- Florida Bar 13th Circuit Grievance Committee “E” (Member)
- Hillsborough County Bar Association (Member)
- National Association of Federal Equity Receivers (NAFER, Member)
- Securities Law Section of Hillsborough County Bar Association (Committee Member)
- American Bar Association (Member)
- Florida Guardian ad Litem Program (Certified Guardian ad Litem)

Professional Recognition

- Selected for inclusion in Florida Super Lawyers® - Rising Stars Edition (2015-present)
- Martindale Hubbell AV Preeminent® Rating

Kelli A. Edson

Partner

Ms. Edson has handled a wide variety of litigation matters throughout her career, including in the areas of trusts, real estate, investments, contracts, bankruptcy, insurance, torts, products liability, class actions, premises liability, landlord/tenant disputes, securities, intellectual property, telecommunications, technology, and unfair trade practices. She understands the importance of working strategically and thinking creatively to attain her clients' objectives.

As a former Special Assistant District Attorney in Cambridge District Court in Middlesex County, Massachusetts, Ms. Edson has successfully tried numerous jury and bench trials. Ms. Edson also assisted in a post-conviction appeal on behalf of an innocent man who was on death row, and the United States Court of Appeals for the Sixth Circuit ultimately overturned the conviction.

Ms. Edson's recent experience includes:

- Obtaining final judgment in favor of a client after a multi-day federal court trial.
- Securing a dismissal with prejudice of a purported multi-million dollar class action suit through investigation and strategic motion practice.
- Defeating the appeal of a final judgment in favor of a client after oral argument before a Florida appellate court, and obtaining an attorney's fees and costs award for the client.
- Successfully resolving a complex litigation matter for an international client.
- Securing a permanent injunction preventing a trademark infringer from improperly using a client's trademark.
- Obtaining a jury verdict awarding two clients all of their damages after a two week federal court trial and securing an award of attorney's fees, costs, and prejudgment interest for the clients.
- Obtaining a jury verdict awarding a client over a million dollars in insurance coverage proceeds after a multi-day federal court trial, and securing an award of attorney's fees, costs, and prejudgment interest for the client.
- Securing complete final summary judgment in favor of three defense clients in a Florida state court case on a complaint containing twelve claims.

A native Floridian who grew up in Plant City, Florida, Ms. Edson is involved in the community. Ms. Edson volunteers on behalf of Bay Area Legal Services to assist victims of domestic violence and dating violence with



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petitioning the court for injunctions for protection as part of the Domestic Violence Assistance Project. Ms. Edson has also served as a mentor to women law students through the Mentoring Committee of the Hillsborough Association of Women Lawyers and has assisted local students in various educational mock trial programs.

Ms. Edson has given presentations on topics such as negotiating settlement agreements and developments in electronic discovery.

Legal Services

- [Product Liability](#)
- [Intellectual Property Litigation](#)
- [Patent Litigation](#)
- [Fiduciary, Trust and Probate Litigation](#)
- [Insurance Coverage Litigation](#)
- [Real Estate and Construction Litigation](#)
- [Litigation & Dispute Resolution](#)
- [Trademark Litigation](#)
- [Financial Institutions Litigation](#)
- [Trade Secrets](#)
- [Trade Secrets and Unfair Competition](#)

Education and Honors

- University of Michigan Law School (J.D., *with honors*, 1998)
- Harvard University (B.A., *with honors*, 1995)

Bar Admissions

- Florida
- Massachusetts

Court Admissions

- U.S. District Court, District of Massachusetts
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. Court of Appeals, 11th Circuit

Professional and Civic Activities

- Hillsborough Association of Women Lawyers
- Florida Association of Women Lawyers

Professional Recognition

- Listed in *The Best Lawyers in America*® 2016-present (Commercial Litigation)
- Selected for inclusion in Florida Trend magazine's "Florida Legal

Elite" list (2013-present)

- Selected for inclusion in the 2013-2018 Florida Super Lawyers® lists (Business Litigation)

Luke Cass

Partner

Luke Cass is a partner in the firm's Litigation and Dispute Resolution Practice Group and leads the Washington, D.C. office's white collar crime and internal investigations practice. With over a decade of service as a decorated federal prosecutor, Mr. Cass has significant experience in white collar investigations and has litigated cases in federal courts throughout the nation.

Prior to joining Quarles & Brady, Mr. Cass was a Senior Trial Attorney with the Public Integrity Section of the U.S. Department of Justice's Criminal Division where he handled public corruption investigations and prosecutions of elected, appointed, and career government officials. Mr. Cass served as an Assistant United States Attorney in the Financial Fraud and Corruption Unit of the U.S. Attorney's Office for the District of Puerto Rico before working at the DOJ in Washington. In addition to Mr. Cass's extensive federal trial experience, he has also briefed and argued numerous appeals before the U.S. Court of Appeals for the First Circuit.

Mr. Cass clerked in the United States District Court for the Eastern District of New York prior to serving as a federal prosecutor and is an Adjunct Professor at Georgetown University Law Center where he teaches White Collar Crime and Securities Fraud.

As a result of his experience, Mr. Cass is exceptionally well qualified to counsel clients in nearly every aspect of complex white collar matters involving both the public and private sectors.

Mr. Cass's defense and internal investigations experience includes:

- Representation of an individual charged with wire fraud and RICO offenses in the United States District Court for the Eastern District of New York
- Representation of individuals and a corporation in a joint healthcare fraud investigation by the FBI and DEA
- Internal investigation on behalf of a Fortune 500 company
- Representation of a witness in a criminal matter in the United States District Court for the Eastern District of Pennsylvania
- Representation of a defendant in a criminal appeal before the United States Court of Appeals for the Seventh Circuit

Mr. Cass's prosecutorial experience includes:

- Trial and conviction of a former senator for wire fraud and embezzlement of federal benefits
- Trial and conviction of a defendant relating to a \$7.5 million Ponzi



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Chicago Office

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scheme and money laundering conspiracy

- Trial and conviction of a defendant for obstruction of justice
- Investigation and prosecution of corporate and individual defendants for introducing misbranded drugs in interstate commerce in coordination with the U.S. Food and Drug Administration's Office of Criminal Investigations
- Lead counsel in the first hate crime prosecution in federal court in Puerto Rico that involved cyber threats and numerous investigations relating to cybercrimes and digital forensic evidence
- Investigation and prosecution of one of the largest healthcare fraud schemes in Puerto Rico
- Lead counsel for appeal of an 82-day trial involving a \$10 million disaster fraud and bribery conspiracy

Legal Services

- Litigation & Dispute Resolution
- White Collar Crime and Internal Investigations
- Appellate
- Research Institutions
- Higher Education
- Health Litigation
- Health & Life Sciences
 - Fraud & Abuse Compliance and Litigation
- Data Privacy & Security

Education and Honors

- New York Law School (J.D., 2003)
 - Law Review
- Lehigh University (B.A., 2000)

Bar Admissions

- District of Columbia
- New Jersey
- New York

Court Admissions

- U.S. District Court, Eastern District of Texas
- U.S. District Court, Western District of Washington
- U.S. District Court, Eastern District of Virginia
- U.S. District Court, Southern District of Florida
- U.S. District Court, District of Puerto Rico
- U.S. Court of Appeals, 1st Circuit
- U.S. Court of Appeals, 7th Circuit
- U.S. District Court, Western District of New York

- U.S. District Court, Northern District of New York
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, District of New Jersey

Professional and Civic Activities

- Georgetown University Law Center, (Adjunct Professor for White Collar Crime and Securities Fraud)
- American Bar Association, White Collar Crime Committee (Member)
- The Federalist Society (Member)

Professional Recognition

- United States Department of Homeland Security, Immigration and Customs Enforcement Director's Interagency Award Recipient (2018)
- United States Department of Health and Human Services, Office of Inspector General Award Recipient for Fighting Fraud, Waste, and Abuse (2018)
- United States Department of Justice, Executive Office for United States Attorneys Director's Award Recipient for Superior Performance as a Criminal Assistant U.S. Attorney (2014)

Languages

- French
- Spanish

Zac Foster

Associate

Zac Foster is a member of the Quarles & Brady's Litigation & Dispute Resolution Practice and Class Action Defense Groups and specializes in complex commercial litigation. He litigates disputes for a variety of clients spanning the banking, franchise, network marketing, medical benefits, and retail sales industries.

Zac has defended a number of clients against nationwide class action claims arising from various state and federal statutes. He also represents franchisors in contract disputes, enforcement of non-competition agreements and restrictive covenants, actions to protect intellectual property and confidential information, and various other business torts. Zac has experience defending clients against various state and federal consumer protection claims, including claims arising under the Fair Debt Collection Practices, the Telephone Consumer Protection Act, the Real Estate Settlement Procedures Act, the Truth in Lending Act, the Florida Consumer Collection Practices Act, and Florida's Deceptive and Unfair Trade Practices Act. Zac leverages this experience to help his clients craft policies and best practices aimed at minimizing litigation risk.

Zac's more significant recent experiences include:

- Defeating a motion for class certification in a proposed consumer class action alleging violations of state and federal debt collection statutes against a mortgage servicer.
- Obtaining the withdrawal of nationwide class allegations in proposed nationwide TCPA class against a national mail-order catalog company.
- Obtaining judgment following trial on behalf of a franchisor for tortious interference and trade secret misappropriation claims brought against a third-party that misappropriated a franchise location.
- Obtaining a preliminary injunction on behalf of a franchisor enjoining a former franchisee from operating a competitive business.



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- Obtaining summary judgment on behalf of a national bank against a borrower claiming RESPA and FCCPA violations related to a loan modification.

Legal Services

- Litigation & Dispute Resolution
- Class Action Defense
- Franchise & Distribution

Education and Honors

- University of Florida Levin College of Law (J.D., *magna cum laude*, 2014)
 - Executive Forum Editor - *Florida Law Review*
 - Order of the Coif
 - Florida Blue Key
 - Chairman - Honor Code Committee
- University of Florida (B.A., *cum laude*, 2010)

Bar Admissions

- Florida

Court Admissions

- U.S. District Court, Southern District of Florida
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Western District of Tennessee
- U.S. Bankruptcy Court, Middle District of Florida
- U.S. Court of Appeals, 11th Circuit

Professional and Civic Activities

- American Bar Association
- Hillsborough County Bar Association
- Phi Gamma Delta (Chapter Advisor)
- Emerging Leaders of Tampa Bay (Membership Committee)
- The Tampa Connection: Alumni Committee
- Tampa Theatre: WineFest Committee

Professional Recognition

- Selected for inclusion in Florida Super Lawyers®—Rising Stars (2017-2019: Business Litigation)
- Selected for The Tampa Connection (Class of 2017-2018)

Drew P. O'Malley

Associate

Drew O'Malley is an associate in Quarles & Brady's Litigation & Dispute Resolution Practice Group. Drew represents a wide array of financial services companies in state and federal litigation including class actions. He regularly defends financial services providers against claims brought pursuant to RESPA, TILA, FCRA, FDCPA, and TCPA. Additionally, Drew defends mortgage lenders, servicers, and other financial services providers against borrower complaints alleging violations of state statutes, wrongful foreclosures, and debt collection statutes.

Legal Services

- Litigation & Dispute Resolution

Education and Honors

- University of Florida Levin College of Law (J.D., 2013)
- University of Florida Warrington College of Business Administration
 - Degree: Finance

Bar Admissions

- Florida

Court Admissions

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Northern District of Florida

Professional Recognition

- Selected for inclusion in Florida *Super Lawyers*® - Rising Stars: 2018-present



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Tampa Office

Tel: (813) 384-6703

Bradley W. Crocker

Associate

Bradley Crocker is an experienced business trial attorney and associate with Quarles & Brady LLP. His practice focuses on commercial litigation, class actions, bankruptcy, and creditors' rights, with an emphasis on high-stakes, complex claims.

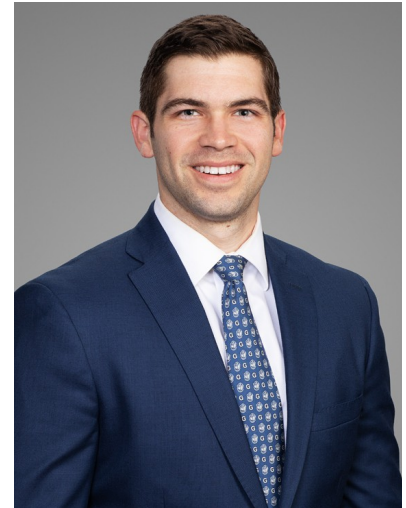
Bradley has experience successfully representing businesses and executive-level clients in commercial disputes in state, federal, and bankruptcy courts, frequently representing financial institutions. He has represented clients in the financial, real estate, sports, healthcare, and agriculture industries in litigation and investigative matters. His litigation matters include class actions, business and partnership disputes, contractual disputes, non-compete and trade secrets matters, as well as matters involving various other business torts. Bradley has also handled appeals in a variety of commercial disputes, code enforcement matters, and class actions.

As a complement to his litigation practice, Bradley regularly counsels businesses on policies and procedures, drafting corporate governance documents and advising on various risk management concerns. An avid sports fan, Bradley has also represented a number of athletic organizations and individuals within those organizations, from the professional level to the amateur level, by advising on policies, handling investigations involving the U.S. Center for SafeSport, and litigating breach of contract actions.

In addition to representing businesses and executives, Bradley is committed to serving as a pro bono attorney, having been part of a team with Lawyers' Committee for Civil Rights Under Law that worked to prepare reports regarding voting rights violations in Louisiana to support recommendation for modifications of Section 5 of the Voting Rights Act.

Representative Experience Includes:

- Defending electric cooperatives in series of nine-figure patronage capital class action disputes
- Defeating plaintiffs' attempt to join 40,000+ cooperative members into lawsuit claiming approximately \$115 million in damages
- Winning heavily contested motion to compel case to individual arbitration; defeating bid for federal class action
- Negotiating and drafting workout and forbearance agreements with obligors in protecting rights of institutional creditors
- Representing financial institution as creditor in winning contested chapter 7 trustee election
- Defeating claims by landlord against commercial tenant at trial, and subsequently winning appeal of final judgment



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Tampa Office

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- Consulting with emerging companies in the agriculture, fintech, education, and media industries to navigate early-stage development and startup fundraising issues

Legal Services

- Litigation & Dispute Resolution

Education and Honors

- University of Florida Levin College of Law (J.D., *cum laude*, 2015)
- Georgetown University McDonough School of Business (B.S.B.A., 2012)
 - Major: Accounting
 - Minor in Spanish

Bar Admissions

- Florida

Court Admissions

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Northern District of Florida
- U.S. Bankruptcy Court, Middle District of Florida
- U.S. Eleventh Circuit

Professional and Civic Activities

- Hillsborough County Bar Association (Member)
- Tampa Bay Bankruptcy Bar Association (Member)
- Jacksonville Bar Association (Member)
- Georgetown University Alumni Admissions Program
- Wm. Reece Smith, Jr. Litigation American Inn of Court (Member)

Professional Recognition

- Selected for inclusion in Florida *Super Lawyers*® - Rising Stars: 2019

Jessica K. Vander Velde

Associate

Jessica Vander Velde is a member of the Quarles & Brady's Litigation & Dispute Resolution Practice Group, though her practice extends far beyond traditional commercial litigation matters. She focuses on complex commercial litigation and financial services litigation, handling disputes for a variety of clients spanning the banking, franchise, construction and retail sales industries.

Jessica has experience defending clients against various state and federal consumer protection claims, including claims arising under the Fair Debt Collection Practices, the Telephone Consumer Protection Act, the Real Estate Settlement Procedures Act, the Truth in Lending Act, the Florida Consumer Collection Practices Act, and Florida's Deceptive and Unfair Trade Practices Act. She has represented franchisors in contract disputes, enforcement of non-competition agreements and restrictive covenants, actions to protect intellectual property and confidential information and other business torts. And she has litigated trust and estate disputes, product liability, landlord/tenant disputes, construction defect cases and complex foreclosure actions.

In addition to her litigation practice, Jessica advises corporations on lobbying, campaign finance, ethics and other compliance matters.



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Legal Services

- Litigation & Dispute Resolution
- Securities and Shareholder Litigation
- Business Law
 - Government Affairs Compliance

Education and Honors

- Stetson University College of Law (J.D., *summa cum laude*, 2017)
 - *Stetson Law Review* (Recent Developments Editor)
 - Stetson Moot Court Board (Member)
- University of Florida (B.S., 2007)
 - Major: Journalism
- University of Florida (B.S., 2007)
 - Major: Psychology

Bar Admissions

- Florida

Professional and Civic Activities

- The Florida Bar (Member)
- The Hillsborough County Bar Association (Member)
- The Federal Bar Association (Member)
- Ferguson-White Inn of Court (Member)

Exhibit 2 - Receivership Experience

- Federal Trade Commission v. NPB Advertising, Inc. et al., Case No. 8:14-cv-1155-T-23TGW (M.D. Fla.)
- Federal Trade Commission v. EM Systems and Services, LLC et al., Case No. 8:15-cv-01417-SDM-AEP (M.D. Fla.)
- Securities and Exchange Commission v. Arthur Nadel et al., Case No. 8:09-cv-00087-T-26TBM (M.D. Fla.)
- State of Florida, Office of Financial Regulation v. Tri-Med Corp. et al., Case No. 14-1695-CI (6th Judicial Circuit Court, Pinellas County, Florida)
- State of Florida, Office of Financial Regulation v. Universal Luxury Coaches, LLC, Case No. 04-CA-2130-16-W (18th Judicial Circuit Court, Seminole County, Florida)



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February 18, 2020

VIA E-MAIL bustilloe@sec.gov

Eric I. Bustillo
Regional Director
U.S. Securities and Exchange Commission
Division of Enforcement
Miami Regional Office
801 Brickell Avenue, Suite 1800
Miami, FL 33131

Re: Kinetic/Receiver Proposal

Dear Mr. Bustillo:

Thank you for calling concerning a possible receivership in a case expected to be initiated in Tampa, Florida by the U.S. Securities and Exchange Commission ("SEC") involving Michael S. Williams, Kinetic Investment Group, LLC, and others. I am certainly interested in being considered a candidate for the Receiver in that case. I have checked the names of the potential defendants and relief defendants that you supplied against our firm's client and adverse party database. There are no conflicts that would preclude my serving as Receiver in your matter. A completed Conflicts of Interests and Background Information form is attached.

As we discussed, I have previously served as a court appointed Receiver in an action filed by the SEC in the United States District Court for the Middle District of Florida, Orlando Division, styled: *Securities and Exchange Commission v. Aquacell Batteries, Inc., et al.*; 6:07-cv-00608-ACC-DAB ("Aquacell Batteries"). The Aquacell Batteries matter involved the identification, marshalling and sale of assets of the primary and relief defendants (the "Receivership Entities") for the purpose of establishing a recovery fund for victims of a Ponzi like investment scheme. From our brief discussions about the Kinetic Investment Group matter, I believe that my experience in the Aquacell Batteries case would qualify me to be the Receiver in the action you anticipate filing.

In the Aquacell matter, between April 2007 and December 2010, our team was able to accomplish the following:

- located, reviewed and analyzed the Receivership Entities' records so as to identify, locate and secure the Receivership Entities' assets;

Eric I. Bustillo

February 18, 2020

Page 2

- managed and maintained the real property assets identified from review of records uncovered by the SEC and the Receiver, including a commercial building in New Smyrna Beach, Florida which served as the offices for the defendant and several relief defendants;
- liquidated assets, including, without limitation, real property, bank and brokerage accounts, collector automobiles and other vehicles, and other personal property, for the benefit of defrauded investors;
- negotiated settlements with lien holders and claimants related to the real property assets of the Receivership located in Florida, North Carolina and Massachusetts, which allowed for the sale of those assets resulting in recovery for the Receivership Estate;
- identified investors who invested with the defendant or other of the Receivership Entities and informed them of the nature of SEC's claims and the Receivership, and established a claims procedure whereby all creditors have had an opportunity to present their claims for payment through as Receiver developed internet website which provided case developments and information on the claims process;
- identified claims and developed legal theories for recovery against parties and non-parties in possession of assets transferred by or from Receivership Entities and assisted federal authorities in their investigation into the Defendant's fraudulent conduct;
- sought and obtained discovery from various individuals in an effort to identify potential claims and locate assets, including taking the depositions of persons in possession of assets believed to be recoverable for the benefit of investors, as well analyzed financial records relating to the Receivership Entities and interviewed numerous individuals in an attempt to trace assets;
- litigated contested issues with claimants whose claims were challenged by the Receiver; and,
- finalized a plan of distribution which was approved by the Court and made distributions to investors for all allowed claims.

I anticipate that many, if not all of the steps followed in the Aquacell Batteries Receivership would be followed in the litigation you have described to me. Specifically, the Receiver would identify, marshal and preserve the assets of the Defendants and Relief Defendants. During the course of the proceeding, the Receiver would assist in the process of determining whether those assets need to be liquidated for the purpose of reimbursing investors

Eric I. Bustillo
February 18, 2020
Page 3

determined to be entitled to recovery, or returned to the Defendants/Relief Defendants. Furthermore, I anticipate having to identify and follow up with entities related to the Defendants/Relief Defendants in order to understand the interrelationship of various entities controlled by and/or related to the Defendants and identify potential investors/victims of the investment “opportunities” offered by the Defendants.

I am an attorney licensed to practice in the State of Florida, and have been so for over 35 years. I hold an AV rating from Martindale-Hubbell. I have attached my professional biography indicating my educational background, relevant practice highlights, and court admissions. In addition to my appointment as a Receiver in the Aquacell Batteries matter, I have also served as a receiver in an action brought by the Federal Trade Commission (“FTC”) involving an illegal telemarketing scheme, in the matter styled *Federal Trade Commission v. WV Universal Management, LLC, Global Financial Assist, LLC, et al.*, Case No. 6:12-cv-1618-Orl-22-KRS, in the United States District Court for the Middle District of Florida. There, working with the FTC, the Office of the Attorney General for the State of Florida, and local law enforcement, I oversaw the shutting down of an unlicensed telemarketing operation and the liquidation of assets for recovery by the FTC and interested claimants.

As an attorney, my standard billing rate for 2020 is \$575.00 per hour. However, while serving as a Receiver I regularly reduce my rate. In this particular case, I propose to reduce my hourly rate to **\$420.00**. During the course of the receivership, there would not be any increase to that rate, regardless of any increases to my rate for clients of my firm. Of course, the Court ultimately will determine how I would be compensated.

From my prior experience as a Receiver, I understand that the Court will look to the Receiver to efficiently manage both his/her own time and resources, but also those of professionals who work for the Receiver. I would actively manage any professionals who are called upon to do any work associated with the receivership, making sure that any staffing choices reflect the best use of the limited resources available and that all tasks are performed efficiently. All billings done by the Receiver or any counsel for the Receiver would comply with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission. For purposes of travel expenses, neither the Receiver nor any of the Shutts and Bowen attorneys employed by the Receiver would charge for travel expenses between their regular office and Tampa.

Based upon the information provided in our call, and some additional information I have been able to review related to the nature of the claims likely to be brought by the SEC, I anticipate that I would utilize specific attorneys at my firm to act as counsel for the Receiver, and to assist in the Receiver’s duties. In addition to attorneys who are extremely experienced in federal securities matters (and resident in the Tampa area), I have included attorneys located in our Miami office who have experience in international disputes, are bilingual, and would be especially qualified to assist in the identification and recovery of assets, wherever located.

Eric I. Bustillo
February 18, 2020
 Page 4

<u>Attorney</u>	<u>Office</u>	2020 Standard Hourly <u>Billing Rate</u>	<u>Proposed Hourly Receivership Rate</u>
Lonnie Simpson	Tampa	\$525	\$420
Erik Matheney	Tampa	\$485	\$390
Kristin Decktrah Paz	Miami	\$435	\$350
Martha Farrell	Miami	\$350	\$280
Alina Gomez	Miami	\$315	\$250
Paralegals	Tampa/Orlando/Miami	\$190-\$280	\$175

Individual biographies of these attorneys are attached. I understand that there could be real estate issues related to properties located in Puerto Rico. Our firm's office in Miami has numerous real estate attorneys experienced in dealing with properties in Puerto Rico. Although not listed here, any of those attorneys called upon to assist the Receiver would be at a similar reduction in their standard hourly rate.

Thank you for providing me the opportunity to be considered as a potential Receiver in your upcoming case. Please call me should you have any questions or comments, or need any additional materials. I look forward to hearing from you.

Sincerely,

Shutts & Bowen LLP



Michael L. Gore

cc: Stephanie N. Moot, Trial Counsel
 Enclosures

SELECTED BIOGRAPHIES



MICHAEL L. GORE

Partner

MGore@shutts.com

Phone: 1-407-835-6905

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300 South Orange Avenue, Suite 1600
Orlando, FL 32801

Michael L. Gore is a partner in the Orlando office of Shutts & Bowen LLP, where he practices business, commercial, and real estate litigation and is a member of the Business Litigation Practice Group.

A Martindale-Hubbell AV® rated attorney, Michael has represented large and small businesses, financial institutions, developers, government entities, entrepreneurs and other individuals in successfully resolving:

- contract disputes;
- creditor's rights;
- business torts;
- insurance coverage;
- claims of unfair and deceptive trade practices; and,
- property rights issues, including commercial landlord/tenant matters.

He also regularly represents lending institutions and asset managers in the collection, foreclosure, and work-out of commercial loans.

Michael has been named as one of the *Best Lawyers in America*® in banking and finance litigation. He represents clients in securities fraud litigation, and has been appointed by the United States District Court as a Receiver in an action brought by the Securities and Exchange Commission.

An experienced trial lawyer, Michael is adept in analyzing problems, negotiating disputes, and utilizing methods of alternative dispute resolution to avoid litigation. He has represented clients before federal and state court, arbitration proceedings, administrative hearings, various state agencies and has more than 20 years of appellate experience. He has represented clients in investigations by the Office of the Attorney General for the State of

PRACTICE AREA

Litigation
Creditors' Rights and
Bankruptcy
Administrative Law and
Licensing
Securities Fraud
Litigation
Complex Loan Workouts

BAR ADMISSIONS

Florida

Florida and the Federal Trade Commission. He has also represented several public officials before the Commission on Ethics for the State of Florida.

Outside of his practice, Michael served for over 15 years as a member of the Executive Committee and as a member of the Board of Directors of the Central Florida Zoological Society. He has served in the past as Chairman of the Grievance Committees for The Florida Bar, Sections 9B and 9D.

EDUCATION

- University of Florida, J.D., 1984
- University of Florida, B.S.B.A., with honors, 1981

COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida

PROFESSIONAL AND CIVIC ACTIVITIES

- The Florida Bar
- Orange County Bar Association
- Central Florida Zoological Society
 - Board of Directors
 - Past President and Secretary, Executive Committee
- Past Chairman, Grievance Committees for the Florida Bar, Sections 9B and 9D

RECOGNITION

- [Martindale-Hubbell AV® Preeminent™ Rated, 5.0 out of 5.0](#)
- *Best Lawyers in America*, Litigation, Banking & Finance, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020
- *Florida Trend's Legal Elite*, 2013
- *Florida Super Lawyers*, Business Litigation, 2007
- *Who's Who in American Law*, 8th Edition, 1994-1995



LONNIE L. SIMPSON

Partner

LSimpson@shutts.com

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Tampa, FL 33607

1858 Ringling Boulevard, Suite 300
Sarasota, FL 34236

Lonnie L. Simpson is a partner at Shutts & Bowen and maintains offices in both Tampa and Sarasota. He is a member of the firm's Business Litigation Practice Group.

For over 25 years, Lonnie has focused his complex commercial-dispute-resolution practice on financial markets, commercial and corporate finance, intellectual property and technology. He represents financial services providers, including commercial and investment banks and individual broker-dealers, for securities litigation matters.

He has also represented financial services providers, telecommunications service providers, product manufacturers and product distributors for litigation before the state and federal courts and arbitration before domestic and international private arbitration panels.

Lonnie is experienced in representing his clients in state and federal courts, appellate courts, and before state and federal regulatory authorities and self-regulatory securities arbitration organizations.

COURT ADMISSIONS

- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Southern Florida District of Florida
- U.S. Bankruptcy Court for the Middle District of Florida
- U.S. Bankruptcy Court Northern District of Florida
- U.S. Bankruptcy Court Southern Florida District of Florida
- U.S. District Court for the District of Arizona
- U.S. Court of Federal Claims
- U.S. Court of Appeals for the Eleventh Circuit

PRACTICE AREA

Litigation
Securities Fraud
Litigation
Class Action

BAR ADMISSIONS

Florida
District of Columbia

RECOGNITION

Best Lawyers in America®, Commercial Litigation, 2016-2020

EDUCATION

University of Florida
College of Law, J.D.
(1989), M.B.A. (1989)

University of Alabama,
B.S., *magna cum laude*,
1985



ERIK R. MATHENEY

Partner

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Tampa, FL 33607

Erik Matheney is a partner in the Tampa office of Shutts & Bowen LLP, where he is a member of the Business Litigation Practice Group.

A Martindale-Hubbell AV® rated litigator, Erik has been named one of the *Best Lawyers in America*® in commercial litigation, white-collar criminal defense and personal injury litigation. He focuses on governmental compliance and complex commercial litigation in state and federal courts. He has represented clients in a wide variety of commercial disputes, including claims involving securities fraud, breach of contract, class actions, partnership disputes, trade secrets, common law fraud, and commercial torts.

Erik has also represented clients in white-collar criminal matters, including defending *qui tam* actions, and addressing federal and state regulatory compliance issues. Prior to joining the firm, he served as an Assistant United States Attorney for the Middle District of Florida. Erik has tried over 70 jury trials, and has been involved in arbitration and substantive evidentiary hearings matters.

Active in professional and Bar-related activities, Erik serves as Chair of the Middle District of Florida Grievance Committee, and is a board member of the Hillsborough County Bar Association and the Tampa Bay chapter of the Federal Bar Association. He is a member of the Federation of Defense and Corporate Counsel. Erik also serves as a board member of his church and counsel for the Western Florida Division of the Church of God in Christ.

COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Southern District of Florida

PRACTICE AREA

Government Contracts
White Collar Criminal
Defense & Governmental
Investigations
Litigation

INDUSTRIES

Government

BAR ADMISSIONS

Florida

RECOGNITION

Martindale-Hubbell AV®
Preeminent Rated
Best Lawyers in America®, Commercial
Litigation, Criminal
Defense: White Collar,
Personal Injury Lit.—
Defendants, 2016-2020
*Florida Trend's Legal
Elite*, 2015, 2016
Florida Super Lawyers,
General Litigation, 2019

EDUCATION

Georgetown University
Law Center, J.D. (1993)
Howard University, B.A.
(1990)



ALINA A. GOMEZ

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Miami, FL 33131

Alina A. Gomez is an attorney in the Miami office of Shutts & Bowen LLP, where she is a member of the Business Litigation practice group.

Alina's practice focuses on general and business litigation matters. She previously served as a Judicial Intern for The Honorable Robert N. Scola, Jr., U.S. District Judge for the Southern District of Florida. Prior to starting law school, she worked for one year in the Racial Justice Program of the American Civil Liberties Union's National Headquarters in New York City, gaining litigation experience. Her past experience also includes internships for the Eleventh Judicial Circuit of Florida, the Miami-Dade County State Attorney's Office, the Department of Homeland Security at the Port of Miami and the office of Congresswoman Ileana Ros-Lehtinen.

PROFESSIONAL AND CIVIC ACTIVITIES

- Junior League of Miami
- Cuban American Bar Association
- Florida Association of Women Lawyers
- Carrollton Alumni Lawyer's Association

COURT ADMISSIONS

- U.S. District Court for the Southern District of Florida
- U.S. District Court for the Middle District of Florida

PRACTICE AREA

Litigation

BAR ADMISSIONS

Florida

LANGUAGES

Spanish

EDUCATION

Washington University
School of Law, J.D. (2018)

- Recipient, Scholars in Law Merit Award
- *Washington University Journal of Law and Policy*
- Co-President of the Public Service Advisory Board

Davidson College, B.A.
(2014)



MARTHA M. FERRAL

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Martha Ferral is an attorney in the Miami office of Shutts & Bowen LLP, where she is a member of the International Arbitration & Litigation Practice Group. Prior to starting law school, she worked for over 20 years as a paralegal in the International Arbitration & Litigation Practice Group, gaining international and litigation experience.

Martha's practice includes counseling companies in international business transactions and in complex litigation matters. Fluent in Spanish, she frequently counsels international clients on their matters in the United States.

COURT ADMISSIONS

- U.S. District Court for the Southern District of Florida

PROFESSIONAL AND CIVIC ACTIVITIES

- Florida Association of Women Lawyers
- Dade County Bar Association
- Cuban American Bar Association

PUBLICATIONS

- "[Just Who Is The Enemy In The War Against Opioids?](#)" St. Thomas Law Review Blog (October 25, 2017)
- "[Does President Trump's Travel Ban Really Protect Us?](#)" St. Thomas Law Review Blog (February 13, 2017)
- "[Are Your Assets Safe Abroad? The Importance of Perfecting Security Interests](#)," St. Thomas Law Review Blog (September 22, 2016)

PRACTICE AREA

Litigation
International Dispute
Resolution

BAR ADMISSIONS

Florida

LANGUAGES

Spanish

RECOGNITION

Daily Business Review,
Most Effective Lawyers –
Arbitration (2019)

EDUCATION

St. Thomas University
School of Law, J.D., *cum*
laude (2017)

Barry University, B.S.,
Legal Studies (1998)



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Kristin Drecktrah Paz is a Partner in the Miami office of Shutts & Bowen, where she is a member of the International Arbitration and Litigation Practice Group.

Kristin specializes in international and complex dispute resolution, including commercial arbitration, investment arbitration, and international litigation. Her arbitration experience as an advocate includes institutional and ad hoc proceedings under diverse rules, including AAA, ICC, ICDR, ICSID, LCIA, and UNCITRAL. She has also counseled private parties in investment arbitration proceedings and Foreign Sovereign Immunities Act (FSIA) litigation involving energy projects and other commercial activities, and has participated in the defense of sovereign states in investor-state arbitration. Her litigation experience includes petitions for U.S. discovery related to foreign proceedings; judicial enforcement and annulment of arbitral awards; disputes involving statutes and judicially developed doctrines for proceedings involving foreign states; recognition and enforcement of foreign judgments; anti-suit injunctions; disputes in energy, natural resources, construction, healthcare, financial services and technology sectors; and business litigation, including contracts, business torts, shareholder disputes, trade secrets, and computer fraud.

Kristin serves as a member of the Executive Council of the International Law Section of The Florida Bar and Treasurer of the Miami-Dade Chapter of the Florida Association for Women Lawyers. She is a past Chair of the International Energy and Natural Resources Committee of the American Bar Association Section of International Law and serves as a board member of Future of Arbitration: Miami (FAM), a local group for young international arbitration practitioners. She is fluent and frequently works in Portuguese and Spanish.

COURT ADMISSIONS

- U.S. District Court for the Southern District of Florida
- U.S. District Court for the Middle District of Florida
- U.S. Bankruptcy Court for the Southern District of Florida
- U.S. Court of Appeals for the Second Circuit

PRACTICE AREA

Litigation
International Dispute
Resolution

BAR ADMISSIONS

Florida

LANGUAGES

Spanish
Portuguese

RECOGNITION

Daily Business Review,
Most Effective Lawyers –
Arbitration (2019),
Business/Complex
Litigation (2017)
"Leader in the Law,"
FAWL (2018)
Florida Super Lawyers,
"Rising Star," 2016-2019

EDUCATION

Florida International
University College of
Law, J.D. (2011)

Universidad Autónoma
de Guadalajara, Master's
in Translation and
Interpretation (2005)

University of Minnesota,
B.A. (2002)

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CASE NO.: 8:20-cv-00394

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 KINETIC INVESTMENT GROUP, LLC and)
 MICHAEL SCOTT WILLIAMS,)
)
 Defendants, and)
)
 KINETIC FUNDS I, LLC,)
 KCL SERVICES, LLC d/b/a LENDACY,)
 SCIPIO, LLC,)
 LF42, LLC,)
 EL MORRO FINANCIAL GROUP, LLC, and)
 KIH, INC. f/k/a KINETIC INTERNATIONAL, LLC,)
)
 Relief Defendants.)
)

**ORDER GRANTING PLAINTIFF SECURITIES AND EXCHANGE
COMMISSION'S EMERGENCY MOTION FOR APPOINTMENT OF RECEIVER**

WHEREAS Plaintiff Securities and Exchange Commission has filed a motion for the appointment of a receiver over Defendant Kinetic Investment Group, LLC (“Defendant”) and Relief Defendants Kinetic Funds I, LLC, KCL Services, LLC d/b/a Lendacy, Scipio, LLC, LF42, LLC, El Morro Financial Group, LLC, and KIH, Inc. f/k/a Kinetic International, LLC (collectively, “Relief Defendants”), with full and exclusive power, duty and authority to: administer and manage the business affairs, funds, assets, causes in action and any other

property of the Defendant and the Relief Defendants; marshal and safeguard all of their assets; and take whatever actions are necessary for the protection of the investors;

WHEREAS the Court finds that, based on the record in these proceedings, the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of the Defendant (“Receivership Assets”) and those assets of the Relief Defendants that: (a) are attributable to funds derived from investors or clients of the Defendant; (b) are held in constructive trust for the Defendant; (c) were fraudulently transferred by the Defendant; and/or (d) may otherwise be includable as assets of the estates of the Defendant (collectively, the “Recoverable Assets”); and,

WHEREAS this Court has subject matter jurisdiction over this action and personal jurisdiction over the Defendant and the Relief Defendants, and venue properly lies in this district.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of Defendant and Relief Defendants (collectively, the “Receivership Defendants”).
2. Until further Order of this Court, Mark A. Kornfeld is hereby appointed to serve without bond as receiver (the “Receiver”) for the estates of the Receivership Defendants.

I. Asset Freeze

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

II. General Powers and Duties of Receiver

4. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers and general and limited partners of the Receivership Defendants under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

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

The Receiver shall assume and control the operation of the Receivership Defendants and shall pursue and preserve all of their claims.

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

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

- A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Defendants, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly (“Receivership Property” or, collectively, the “Receivership Estates”);
- B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Defendants; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;
- C. To manage, control, operate and maintain the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court;
- D. To use Receivership Property for the benefit of the Receivership Estates, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, trustees and agents of the Receivership Defendants;

- F. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;
- G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- H. The Receiver is authorized to issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure;
- I. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver;
- J. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estates; and,
- K. To take such other action as may be approved by this Court.

III. Access to Information

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

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

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

IV. Access to Books, Records and Accounts

11. The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records and all other documents or instruments relating to the Receivership Defendants. All persons and entities having control, custody or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

12. The Receivership Defendants, as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendants, and any persons

receiving notice of this Order by personal service, facsimile transmission or otherwise, having possession of the property, business, books, records, accounts or assets of the Receivership Defendants are hereby directed to deliver the same to the Receiver, his agents and/or employees.

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

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

V. Access to Real and Personal Property

14. The Receiver is authorized to take immediate possession of all personal property of the Receivership Defendants, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and

any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies and equipment.

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

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

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

VI. Notice to Third Parties

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

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

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

21. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Defendants (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Defendants. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other

instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Defendants shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of any Receivership Defendants, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Defendants. The Receivership Defendants shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository or courier service.

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

VII. Injunction Against Interference with Receiver

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

A. Interfere with the Receiver's efforts to take control, possession, or

management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;

- B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to, concealing, destroying or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property, enforcing judgments, assessments or claims against any Receivership Property or any Receivership Defendant, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any Receivership Defendant or which otherwise affects any Receivership Property; or,
- D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.

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

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

VIII. Stay of Litigation

26. As set forth in detail below, the following proceedings, excluding the instant proceeding and all police or regulatory actions and actions of the Commission related to the

above-captioned enforcement action, are stayed until further Order of this Court:

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

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

28. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Defendants against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

IX. Managing Assets

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

30. The Receiver's deposit account shall be entitled, together with the name of the action:

- A. Receiver's Account, Estate of Kinetic Investment Group, LLC
- B. Receiver's Account, Estate of Kinetic Funds I, LLC
- C. Receiver's Account, Estate of KCL Services, LLC d/b/a Lendacy
- D. Receiver's Account, Estate of Scipio, LLC
- E. Receiver's Account, Estate of LF42, LLC
- F. Receiver's Account, Estate of El Morro Financial Group, LLC
- G. Receiver's Account, Estate of KIH, Inc. f/k/a Kinetic International, LLC

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

32. Subject to Paragraph 33 immediately below, the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.

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

Receivership Estates.

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

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

X. Investigate and Prosecute Claims

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

37. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver may seek, among other legal and equitable relief, the

imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to Counsel for the Commission before commencing investigations and/or actions.

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

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

XI. Bankruptcy Filing

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

41. The provisions of Section VIII above bar any person or entity, other than the

Receiver, from placing any of the Receivership Defendants in bankruptcy proceedings.

XII. Liability of Receiver

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

43. The Receiver and his agents, acting within scope of such agency (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

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

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

XIII. Recommendations and Reports

46. The Receiver is authorized, empowered and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and

recoverable Receivership Property (the “Liquidation Plan”).

47. Within ninety (90) days of the entry date of this Order, the Receiver shall file the Liquidation Plan in the above-captioned action, with service copies to counsel of record.

48. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the “Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates.

49. The Quarterly Status Report shall contain the following:

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

- F. A list of all known creditors with their addresses and the amounts of their claims;
- G. The status of Creditor Claims Proceedings, after such proceedings have been commenced; and,
- H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

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

XIV. Fees, Expenses and Accountings

51. Subject to Paragraphs 52-58 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state or local taxes.

52. Subject to Paragraph 53 immediately below, the Receiver is authorized to solicit persons and entities ("Retained Personnel") to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

53. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the "Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange

Commission” (the “Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

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

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

56. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

57. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and,
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered

into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

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

DONE AND ORDERED this ____ day of _____ 2020, in _____, Florida.

UNITED STATES DISTRICT JUDGE

cc: Counsel of record