

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**KINETIC INVESTMENT GROUP, LLC and
MICHAEL SCOTT WILLIAMS,**

CASE NO.: 8:20-cv-394

Defendants, and

**KINETIC FUNDS I, LLC,
KCL SERVICES, LLC d/b/a LENDACY,
SCIPIO, LLC, LF 42, LLC, EL MORRO
FINANCIAL GROUP, LLC, and KIH, INC.,
f/k/a KINETIC INTERNATIONAL, LLC,**

Relief Defendants.

THE RECEIVER'S RESPONSE TO THE COURT'S JULY 1, 2020 ORDER

On July 1, 2020, the Court entered an Order (the "Order") (Doc. 99) concerning the Receiver's First Interim Omnibus Application for Allowance and Payment of Professionals' Fees and Reimbursement of Expenses (the "Fee Application") (Doc. 74). The Order referenced a fee invoice submitted by the Receiver's Court-approved forensic technology professional that "includes 6 hours billed by Rohr at a rate of \$1,000 per hour for 'Triage Reporting'" and requested clarification from the Receiver. Doc. 99 p. 2. The Receiver appreciates the opportunity to provide the requested clarification.

In the Receiver's Motion for Authorization to Employ Information Technology and Support Personnel filed on March 6, 2020 (the "Motion") (Doc. 38), the Receiver sought

approval to retain E-Hounds to provide forensic technology services. Doc. 38. In its proposal and fee schedule attached as Exhibit B to that Motion and attached hereto as **Exhibit 1**, E-Hounds proposed a standard rate of \$195 - \$250 per hour depending on the standard or expedited nature of the timeline as well as fees for other services including a “Triage Service” for a \$1,000 flat fee that included “basic processing of single computer, identifying initial data, history, deletions, and data movement.” Doc. 38-2 p. 4. In discussions with E-Hounds, the Receiver understands that this “Triage Service” is a flat-fee service performed on a seized computer that can often take anywhere from 4 hours to 20 hours to complete and includes identifying potential alternative data sources, data recovery, and generating reports used in the case. This flat fee structure is offered to allow the Receiver to accurately gauge expenses and avoid any cost uncertainty.

The Receiver has confirmed with E-Hounds that the six entries on E-Hounds’ invoice for “Triage Reporting” were not hourly billing rates but rather were the flat fee “Triage Service” as referenced in E-Hounds’ fee schedule performed for the specific computer identified in the description. Neither Mr. Rohr nor anyone at E-Hounds has billed their time at a rate of \$1,000 per hour. The Receiver has provided a copy of the Order to E-Hounds and will work with E-Hounds and all professionals to ensure that future fee applications and submitted invoices include sufficient clarification on the type and description of requested fees and costs.

Provided this explanation satisfies the Court’s inquiry, the Receiver respectfully requests that the Court enter an Order (i) approving the Fee Application in its entirety; and (ii) providing any further relief deemed just and proper.

QUARLES & BRADY LLP

/s/ Jordan D. Maglich
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Tampa, FL 33602
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

Christine Nestor, Esq.
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Counsel for Defendant Michael Williams

/s/ Jordan D. Maglich
Attorney

EXHIBIT 1



PLEASE NOTE OUR NEW ADDRESS ----->

E-Hounds, Inc.

32815 US 19 North Suite 100

Palm Harbor, Florida 34684

Tel (727) 726-8985

email - support@ehounds.com

To: Nichole Perez, Quarles & Brady LLP

CASE REFERENCE: Receivership (TBD)

03/05/2020

Thank you for contacting E-Hounds Computer Evidence Services. We appreciate the opportunity to assist you in this case. Computer evidence can sometimes be overwhelming and burdensome, but we try to alleviate those concerns. If you have questions at any time, we encourage you to contact our offices. The following is a basic timeline of steps we take in most cases:

1. Planning:

Advise as to what types of evidence are likely to be found - What might be a "smoking gun"?

Analyze password, encryption, or storage systems - is there any mobile devices or cloud based data at issue?

Determine location of targeted evidence and define the most efficient set of data to search.

2. Acquisition: (See Page 4 for more information on Forensic Acquisition & Preservation)

Determine the physical location of the targeted evidence (where is the media now?)

Preservation or acquisition which will safeguard the original, ensure metadata is maintained and provide for chain of custody.

3. Recovery:

Restore any unreadable data to accessible formats.

Convert data as needed to readable formats, including Optical Character Recognition (OCR) to make scans, faxes, and photos of documents searchable

4. Analysis & Review:

Varies depending on case requirements but generally takes one of two tracks:

E-Discovery Track

Custodian assignment

Keyword search (identifiable by sender, dates, or content)

Privilege and Date filtering

Data authenticity/integrity analysis

NEW! E-Hounds Review proprietary encrypted review platform

Computer Forensics Track

"Triage" - Identifying activity (USB, alternate email account usage)

Determining if there are deletions

Internet Activity

File Access Activity (networks, cloud services, local hard drives)

Communications with unknown parties

5. Reporting & Deliverables:

Deliverable packages, often ready same day in a variety of formats.

Customized evidence reports and exhibits

Affidavits and certified copies of data

Expert witness testimony (if required)

On-Site Services and Acquisition- While FedEx or UPS are very reliable couriers, often our clients prefer to have a critical piece of evidence not leave their sight. We can provide for two separate options in these cases.

1. A forensic copy can be made in the presence of all parties involved at our lab in Palm Harbor, Florida
2. A forensic copy can be made onsite at the location of the parties choosing by an E-Hounds Technician.

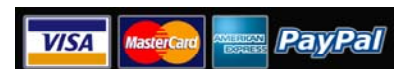
To control Chain of Custody issues that may arise, E-Hounds does not advise allowing any other person without extensive Forensic Computer Training to have access to media which may be subject to Evidence Recovery. This includes making copies or images. **ONLY AFTER** a Forensic Copy has been made, the original media may be used again if absolutely necessary.

TO SUBMIT YOUR CASE - PLEASE COMPLETE:

1. Authorization Form (Next Page)
2. Completed Fee Agreement (Page 3)
3. Payment Arrangements and Evaluation Retainer (We accept Check, Wire Transfer, and all Major Credit Cards.)

Thank you again for contacting

E-Hounds, Inc. Digital Evidence Services





E-Hounds, Inc.
Digital Evidence Services
 32815 US 19 North Suite 100
 Palm Harbor, Florida 34684
 Tel (727) 726-8985
 email - support@ehounds.com

Company/Firm (CLIENT):

Quarles & Brady LLP
Nichole Perez

Bill to Party(s): (List Additional if necessary)

Quarles & Brady LLP
Nichole Perez

Phone Number(s):

813-387-0299

Shipping Address:

Please note: All billing is sent by email.

Billing EMAIL Address(es):

Nichole.Perez@quarles.com

CASE STYLE (or opposing parties names)

Receivership (TBD)

☒ On-Site Acquisition
☒ Preservation
☒ Triage Workup*
☐ Data Remediation

☒ Keyword Search
☒ Data Recovery
☒ Court Appointment
☐ Neutral

☒ Expert Services
☐ Affidavit of Findings
☒ Internet/E-Mail
☒ E-Discovery

☐ Document Imaging
☐ CCTV DVR

These selections were made based on your initial call. Do not be alarmed if a certain item has remained unchecked. Contact your representative if you have any questions.

* "Triage Workup" is a basic service that is generally an "all-in-one" flat fee per computer, and is intended to provide an initial "fact-finding" or uniquely targeted request. It does not include any on-site hourly charges, and does not provide for an expert report. Please ask your case agent for more details.

SERVICES REQUESTED (Please provide goals and/or specific information we should look for. Include date ranges, specific names or email addresses if known.)

Initial Case Notes (Taken from our First Contact)

Current E-Hounds Assigned Case # - **E9578**
 Case Logged **03/05/2020 11:54:58 AM**
 Case Reference - **Receivership (TBD)**

Identification, collection and preservation of data in receivership matter.

Client engages and authorizes E-Hounds, Inc. (hereinafter E-HOUNDS) to analyze, acquire, report, and conduct forensic services and/or data recovery services, in whole or in part, in the above styled case. Client understands that the fees for all services are accepted under the separate E-Hounds Fee Agreement, without which, E-HOUNDS reserves the right to stop all services without penalty until such time as the signed Fee Agreement and Retainer fees are received by E-HOUNDS. E-HOUNDS shall in no way be held responsible nor be liable for any damages caused by work stoppage. Client is the legal owner, representative, or otherwise has legal right to property and/or data contained therein (unless said contents are covered under separate agreement such as Attorney/Client Privilege or Confidential Work Product or Court Order). E-HOUNDS agrees to hold any and all information and/or data belonging to the Client in strictest confidence, and E-HOUNDS shall not reveal or cause to be revealed any such data as it may recover to any person, agency, or entity other than those specifically authorized by the Client or as provided by court order. E-HOUNDS will not assume any responsibility for the nature or content of the media provided by the Client, and will not accept any liability for its use or misuse by the Client following recovery, restoration, and/or reconstruction. Client understands that E-HOUNDS liability is limited to destruction and/or loss of data resulting from E-HOUNDS services, not handling of media or related equipment, either by the Client or any other agency, whether prior to delivery to E-HOUNDS or following its release from E-HOUNDS. E-HOUNDS can only accept responsibility for the physical preservation and protection of media and/or equipment while it is in the immediate care, custody, and control of E-HOUNDS. Client further understands that E-HOUNDS shall be held harmless for any claims relating to or arising from service(s) requested. Client and/or Billing Party agrees to be fully and wholly responsible for any court costs, attorney fees, subpoena appearance, deposition and/or penalties which E-Hounds incurs relating to this engagement, both during and after as may be required. Client and Billing Party also agree and understand that FULL payment for services rendered as approved during the term of this engagement is due immediately upon receipt of invoice. Signature indicates acceptance of these terms and authorization to sign on behalf of the above listed parties (CLIENT & Billing Party).

Signature on behalf of Client

Title

Date

Name (Please Print)



Fee Agreement for Case E9578, submitted 03/05/2020 11:54:58 AM
 Quarles & Brady LLP, Nichole Perez(Billing Party)

Retainer and Billing: A retainer is required prior to case intake and setup, acquisition of computer evidence, consultation or review, or long term data storage (we keep copies of your evidence until your case is closed, either by you or the courts) and is generally applied proportionally throughout your case. E-Hounds nor any of its employees/officers may be listed as a witness without retaining our services (\$1000 flat fee for listing as witness without retainer). All retainer amounts are nonrefundable after 30 calendar days. We invoice every 15 days or as case activity warrants.

Travel Charges: E-Hounds' Evidence Technicians are available for onsite service and travel globally. Billing for onsite work is based on the hourly fee, "portal to portal". Travel time is based on published drive times (e.g. Google Maps estimates) or published flight times (if drive time exceeds 6 hours). We do not charge for travel expenses incurred during your case unless flight is required in less than seven days of notice, or in the event of international travel. Extensive travel (e.g. requiring overnight stay) we do not charge for 6 hours sleep time, and may reduce your travel time rate depending on the work being performed. Less than seven days notice for cases requiring air travel will be charged on an EXPEDITED TIMELINE. All flights shall be booked "Business Class" whenever available.

Media Intake: E-Hounds maintains strict chain of custody procedures. All media is photographed, noted, inventoried, tagged and maintained to safeguard and preserve evidence. A flat fee is charged for each piece of media received or acquired. This fee also provides for the secure deletion of data stored by E-Hounds at case closure. Data Recovery services are quoted as needed for damaged and non-functioning media.

Hourly Billing: Our average case fees to forensically acquire, analyze and report on a single computer (around 200 gigabytes of data) ranges from \$1500 to \$5000 depending on the requests made (not including any onsite work). Substantial keyword requests can increase hourly costs drastically, and can often be minimized by advising E-Hounds as to expectations and goals. If there is a large quantity of data to be recovered, or substantial data results from a search, billing can be substantial. Less than 48 hours notice for any onsite work, as well as weekend or after-hours service will be charged as an Expedited Timeline.

Expert Services: Expert Witness, Consulting Expert, and any form of sworn testimony included deposition is billed in advance with a half-day (4 hour) minimum. Less than 48 hours notice for expert services is billed at the expedited rate. Expert fees must be received at least 48 hours prior to any scheduled local appearance and 7 days prior to appearance requiring travel. All fees are nonrefundable once received. Expert fees are charged portal to portal. Additional hours as needed will be billed after appearance.

E-Hounds Review Platform: E-Hounds can, at your option, provide a unique search and review platform. All data is hosted on E-Hounds secure servers, and never transmitted or accessed by third party service providers. You access our platform through an encrypted web browser over the internet. Fees for this service are billed monthly and vary based on usage starting at \$995. **We do not charge per gigabyte.**

All billing is DUE ON RECEIPT. All unpaid balances over 30 days will be subject to a 1.5% fee per month. Any unpaid balances over 90 days will be subject to equipment forfeiture, data erasure, collection process and reasonable attorney's fees incurred in collection. Services by E-Hounds is rendered on behalf of the agency, agent, or party contracting for the services, and payment for such services is the sole liability and responsibility of that agency, agent, or party, and is not transferrable nor assignable. Your authorized signature below indicates acceptance of these terms.

FEE SCHEDULE:

Retainer Amount Requested \$0

(an additional retainer may be requested for expedited acquisitions)

Standard Timeline (15 to 20 Business Days)

(A mixture of standard and expedited services is common)

Standard Rate	\$195.00 per hour
as Court Appointment	\$245.00 per hour
Sworn Testimony	\$400.00 per hour
Expert Consultant	\$300.00 to \$350 per hour
File Conversion	\$95 to \$195 per GB
Intake/Preservation	\$225.00 per source
	\$50.00 per CD/DVD

Expedited Timeline

("Front of the Line", Less than 48 hours notice, After Hours)

Standard Rate	\$250.00 per hour
as Court Appointment	\$295.00 per hour
Sworn Testimony	\$500.00 per hour
Expert Consultant	\$400.00 per hour
File Conversion	\$95 to \$195 per GB
Intake/Preservation	\$275.00 per per source
	\$75.00 per CD/DVD

EH Review Platform \$995 per month
EH Review add'l users \$95 per month

"Triage Service" - Basic processing of single computer, identifying initial data, history, deletions, and data movement. \$1000 Flat

Signature on behalf of Responsible Party

Title

Date



Having trouble tracking down computer evidence?
Call in the E-Hounds!



E-Hounds Computer Evidence & Data Recovery Lab specializes in finding, recovering, searching and analyzing computer information for use in legal matters. Through programs specifically designed for attorneys and paralegals, or through our wide range of individual services, we provide solutions to managing this often amorphous dimension of discovery.

Ask about the E-Hounds Review Platform! [What is E-Hounds Review?](#)

You've probably heard of common litigation tools such as Relativity, Concordance, Summation, iLook. So have we. We also saw and read about the skyrocketing costs of e-discovery review and hosted platforms. Did you know that during *Apple Inc. v. Samsung Elecs. Co.*, 2014 U.S. Dist. LEXIS 132830 Apple cited **e-discovery costs of \$1,486,475.01** just for hosting produced documents on a third party service?!! E-Hounds has done something about that. We offer our clients the use of our in-house E-Hounds Review Platform. We don't charge by the gigabyte, nor the page. Data set sizes don't affect us (or your costs). We host your data in house, on our secure servers. We provide you and reviewers of your choosing, encrypted access to see, search, tag and review the documents and data in your case. After you've selected the documents you need, you can even create your own deliverable package. Sounds great? Sounds scary? No problem - we're here to help. We use these tools every day, and we act as your personal support team - no outside third party vendors.

Simple, intuitive, task based review - at a cost that's affordable no matter the size of the case. "But how can you do that?!" It's simple - it's not all that we do. We don't want to just host your data, and say goodbye. We're part of your team, from beginning to end. From initial collection, to custodial culling, to deduplication, to expert consultancy, to litigation testimony. **We see too many large e-discovery houses that don't care if they burn through your litigation budget.**

About Forensic Preservation [What is a forensic acquisition?](#)

Forensic acquisition (also known as "imaging" or "forensic preservation") is an absolutely necessary process which takes a "snapshot" of a computer, effectively freezing the contents up to that date. This includes deleted files and fragments of old documents as well as the original dates and times of alterations, copying of files and deletion dates. Safeguards are taken to ensure that the original media (hard drive, CD-ROM, server data, cell phone, tablet, etc...) remains unaltered during the acquisition process.

About "Triage" Services [How to know if you have a problem before it's a problem...](#)

This is a newer, cost effective flat rate service, priced *per computer or device*. Typically a flat \$1000 (shipped or delivered to our lab) and includes the imaging preservation process. We go through everything, internet history, cloud access, files opened and changed, USB devices connected and how they were used, networks accessed... etc. We go over it with you, and provide exhibits of what is key to any findings (essentially reports for you or the client to review and determine if there's a deeper rabbit hole to pursue). It doesn't include an expert report, affidavits, or any kind of testimony. That's based hourly beyond the triage phase.



How long does a forensic preservation take?

There are many factors involved in gauging the amount of time needed to perform an preservation. The average 500gb hard drive will typically take 2 or 3 hours. The average Mobile phone will take 1 to 3 hours depending on the manufacturer, and the amount of content (if it has tens of thousands of text messages, it takes longer than only a few thousand).

How long does data loading, indexing, and deduplication take?

Again, there are a number of factors that influence the timing of processing, but typical cases can be loaded for review within 48 hours of final data collection.

(727) 726-8985