

fraud since late 2017. By engaging in the fraudulent conduct, Defendants violated, and are violating, multiple provisions of the federal securities laws—including Sections 5(a) and 5 (c) and 17(a)(2) of the Securities Act of 1933 [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)(2)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5(b) [17 C.F.R. § 240.10b-5] thereunder.

As the fraud is ongoing, and investors' funds may remain at risk of being misappropriated, the SEC seeks emergency *ex parte* relief in this action to enjoin violations of the federal securities laws, freeze assets, appoint a receiver, and obtain other equitable relief. The SEC's past experience is that persons who violate the federal securities laws often dissipate and waste investor assets when they are made aware of potential civil enforcement actions by the SEC. Such conduct makes it much more difficult, if not impossible, for the SEC to secure appropriate relief in the public interest in its subsequent enforcement proceedings. Based on this experience, the SEC is concerned that the Defendants, once they become aware of this lawsuit, will withdraw any remaining assets, transfer them to third parties, or otherwise seek to improperly shield them. For these reasons, the SEC has not notified the adverse parties of its intention to seek the relief requested.

To aid in the marshaling and conserving of Defendants' assets and to aid in preserving the status quo, the SEC moves this Court for an order to temporarily seal the filing of this proceeding, the Complaint, and all other motions, briefs, appendices, orders, and other collateral papers filed in this matter until the earlier of (a) the filing of executed returns of service or waiver of service forms as to the Defendants; or (b) the SEC filing a Notice of Status with the Clerk of Court, stating that one or more of the Defendants has learned of this proceeding, at which point continuation of a sealing order would be futile and would unnecessarily prevent potential victims from receiving

notice and warning of the Defendants' fraud.

A seal under these circumstances is necessary and in the public interest for several reasons. In this era of widespread and instantaneous electronic information and internet access, and electronic filing of court documents, it is possible that the Defendants could learn of the Court's orders prior to being served. They could then take steps to frustrate the purpose of the orders, permanently damaging or altering the status quo. Sealing the files until Defendants may be found and served, or otherwise have notice of the proceeding—and until an appointed Receiver, if any, can take possession of Defendants' premises and assets—is an important measure to preserve the status quo until the Court can make an ultimate determination. This limited time period for sealing the Court's file will enable the Receiver and/or other authorized persons to physically arrive at the Defendants location(s) and serve them before they are able to flee or otherwise to evade service, dissipate assets, or destroy records.

MEMORANDUM OF LAW

A court possesses inherent power to seal part or all of its records. *See, e.g., United States v. McVeigh*, 119 F.3d 806, 811 (10th Cir. 1997) (stating that court records "may be sealed if the right to access is outweighed by interests favoring non-disclosure"). In ruling on a motion for leave to file under seal, courts employ a balancing test, to determine whether the interests furthered by denying public access (*e.g.*, preventing unfair pretrial publicity, law enforcement purposes, or protecting privacy interests) outweigh the public's interest in inspecting judicial records. *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978). Here, the serious law enforcement interests implicated tip the scale heavily in favor of sealing this matter for the very limited period requested. Accordingly, the SEC respectfully requests that all pleadings and orders in this matter be

sealed until the earlier of one of the following occurring, at which pointed the Clerk shall be ordered to unseal the matter:


1. Executed returns of service or waivers of service as to one or more of the Defendants are filed; or
2. The SEC files a Notice of Status stating that, because one or more of the defendants in the action have sufficient notice of this action, further sealing is unnecessary and the Clerk should unseal the matter.

REQUEST FOR RELIEF

The SEC respectfully requests that, as provided in the proposed order filed herewith, the Court seal these proceedings, the pleadings, all orders, and all other motions and papers filed herein until the earliest of (i) the filing of executed returns of service or waivers as to Defendants, or (ii) the filing of a notice of status.

Dated: January 25, 2018

Respectfully submitted,



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