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15 UNITED STATES DISTRICT COURT
 16 SOUTHERN DISTRICT OF CALIFORNIA

17 SECURITIES AND EXCHANGE
 18 COMMISSION,

19 Plaintiff,

20 v.

21 TOTAL WEALTH MANAGEMENT,
 22 INC.; et al.,

23 Defendants.

Case No. 15-cv-226 BAS (DHB)

NO ORAL ARGUMENT UNLESS
 REQUESTED BY THE COURT

**FIFTH INTERIM REPORT AND
 PETITION FOR INSTRUCTIONS OF
 RECEIVER, THOMAS A. SEAMAN**

[Notice of Filing of Interim Report
 submitted concurrently herewith]

Date: December 4, 2017

Time: 10:00 a.m.

Ctrm: 4B

Judge: Hon. Cynthia Bashant

24 **TO THIS HONORABLE COURT, ALL PARTIES, AND THEIR
 25 COUNSEL OF RECORD:**

26 **PLEASE TAKE NOTICE THAT** on December 4, 2017, in Courtroom 4B
 27 of the above-entitled Court, located at 221 West Broadway, San Diego, California
 28 92101, and in accordance with: (a) this Court's February 12, 2015 "(1) Preliminary
 Injunction, Appointment of a Permanent Receiver, and Related Orders; and
 (2) Order Vacating Hearing on Preliminary Injunction" (the "Appointment Order");
 (b) Civil Local Rule 66.1(e); (c) this Court's May 8, 2015 "Order Granting Motion

1 for Order in Aid of Receivership" (the "Order in Aid"); and (d) this Court's June 7,
2 2016 "Order Approving Joint Stipulation to Substitute Thomas A. Seaman as
3 Permanent Receiver" (the "Substitution Order"), Thomas Seaman (the "Receiver"),
4 the Court-appointed permanent receiver for Total Wealth Management, Inc. ("Total
5 Wealth") and its subsidiaries and affiliates, including but not limited to Altus Capital
6 Management, LLC ("Altus Capital") (collectively, with Total Wealth, the
7 "Receivership Entities" or "Entities"), will and hereby does submit this Fifth Interim
8 Report (the "Interim Report"), covering the period from January 1, 2017 through
9 September 15, 2017 (the "Reporting Period");

10 **I. PRELIMINARY STATEMENT.**

11 During the Reporting Period, the Receiver's efforts were largely concentrated
12 in two areas: (1) identifying and recovering available assets of the Entities
13 ("Receivership Assets" or "Assets"); and (2) developing, securing Court approval of,
14 and undertaking a claims process whereby investors in and creditors of the
15 Receivership Entities could submit claims for payment to the Receiver. As such,
16 since the submission of the Receiver's Fourth Interim Report, the Receiver has:

- 17 • Continued his pursuit of litigation against Private Placement Capital
18 Notes II, LLC and its principal, Tony Hartman (collectively, "PPCN")
19 in connection with allegations that PPCN operated a Ponzi-like scheme
20 in which millions of Entity investors' funds were invested;
- 21 • Secured Court approval of a partial settlement with certain malpractice
22 litigation defendants, which the Receiver anticipates will result in a
23 recovery of hundreds of thousands of dollars for the benefit of the
24 Receivership Entities and their investors and creditors;
- 25 • Continued his pursuit of litigation against the remaining malpractice
26 litigation defendants and is working on several settlements in an effort
27 to recover additional funds.
- 28 • Entered into Court-approved agreements with Defendant Jacob Cooper,

1 the Securities and Exchange Commission (the "Commission"), and
2 certain of Mr. Cooper's creditors regarding the proposed disposition of
3 certain of Mr. Cooper's assets, and reserving the right to assert claims
4 against any sales proceeds derived therefrom;

- 5 • Met and conferred with investors and their representatives; and
- 6 • Commenced the processing of timely investor and creditor claims and
7 commenced the development of a recommended treatment of claims
8 and proposed distribution plan, which the Receiver will ultimately
9 submit for Court approval.

10 A detailed summary of the Receiver's efforts during the Reporting Period, as
11 well as his analysis, supplemental conclusions, and recommendations developed
12 since the submission of the Fourth Interim Report, is presented below.¹

13 **II. PROCEDURAL HISTORY.**

14 The Receiver invites the Court and interested parties to review the following
15 materials² for a general summary of the relevant facts underlying the above-
16 captioned receivership case and the activities of the Receiver and the Receiver's
17 professionals:

- 18 • Commission's Complaint (the "SEC Complaint") against Defendants
19 Total Wealth and Jacob Keith Cooper (Dkt. No. 1.);
- 20 • Appointment Order (Dkt. No. 8);
- 21 • Receiver's Initial Report (Dkt. No. 17);
- 22 • Order in Aid (Dkt. No. 31);
- 23 • Receiver's First Interim Report and Petition for Further Instructions
24 (Dkt. No. 43);

26
27 ¹ Please note that the omission from this Interim Report of matters addressed in
28 previous Reports submitted by the Receiver does not reflect a determination that
such matters are no longer pertinent or that any previously presented conclusions
have been modified or withdrawn.

² Materials are available on the Receiver's website, totalwealthreceiver.com.

- 1 • Receiver's Second Interim Report and Petition for Further Instructions
- 2 (Dkt. No. 70);
- 3 • Substitution Order (Dkt. No. 102);
- 4 • Receiver's Third Interim Report and Petition for Further Instructions
- 5 (Dkt. No. 111);
- 6 • Notice of Motion and Motion of Receiver for Order Establishing
- 7 Summary Claims Procedures, Setting Claims Bar Date, and Approving
- 8 Proposed Claim Form ("Claims Motion") (Dkt. No. 124);
- 9 • Order granting Claims Motion (Dkt. No. 137);
- 10 • Receiver's Third Interim Report and Petition for Further Instructions
- 11 (Dkt. No. 144);
- 12 • Amended Joint Motion to Release Real and Personal Property from
- 13 Asset Freeze for Sale Purposes (the "Cooper Property Sale Motion")
- 14 (Dkt. No. 154);
- 15 • Order Granting Cooper Property Sale Motion (Dkt. No. 156);
- 16 • Receiver's Ex Parte Motion for Order Authorizing Filing of Joint
- 17 Motion to Approve Settlement Under Seal (the "First Settlement
- 18 Sealing Motion") (Dkt. No. 168);
- 19 • Defendant Cooper's Motion to Stay (Dkt. Nos. 173);
- 20 • Order granting First Settlement Sealing Motion (Dkt. No. 174);
- 21 • Receiver's Ex Parte Motion for Order Authorizing Filing of
- 22 Supplement to Joint Motion to Approve Settlement Under Seal (the
- 23 "Second Settlement Sealing Motion") (Dkt. No. 179);
- 24 • Order granting Second Settlement Sealing Motion (Dkt. No. 181);
- 25 • Order Granting Joint Motion to Approve Settlement (the "Settlement
- 26 Approval Order") (Dkt. No. 183); and
- 27 • Order: (1) Denying Defendant Jacob Keith Cooper's Motion to Stay
- 28 [ECF No. 173]; (2) Granting SEC's Motion for Summary Judgment

1 [ECF No. 151]; and (3) Entering Final Judgment of Permanent
2 Injunction Against Defendant Jacob Keith Cooper (the "Final Judgment
3 Order") (Dkt. No. 185).

4 **III. SUMMARY OF ACTIVITIES AND EFFORTS SINCE SUBMISSION**
5 **OF FOURTH INTERIM REPORT.**

6 **A. Asset Recovery History, Efforts, And Conclusions.**

7 In her Initial Report and Recommendations and Petition for Instructions (Dkt.
8 No. 17) and First Interim Report and Petition for Further Instructions (Dkt. No. 43),
9 Kristen Janulewicz, the Receiver's predecessor, estimated that investor losses in this
10 case could exceed \$40 million. Ms. Janulewicz's initial conclusion regarding
11 potential investor losses was derived, in significant part, from two observations:
12 (1) notwithstanding representations to the contrary, the Receivership Entities
13 directed investor funds to the same set of underlying investments, many of which
14 were paying revenue-sharing fees to the Entities, regardless of investors' unique risk
15 profiles and sensitivities; and (2) investor funds were highly concentrated in two
16 underlying investments – Aegis Holding Company and its affiliates (collectively,
17 "Aegis") and PPCN, neither of which appeared to have a means of repaying debts
18 owed to investors. (See, e.g., Dkt. No. 17, Ex. 1.)

19 Ms. Janulewicz initially determined that the Receivership Entities had written
20 off as unrecoverable approximately \$18 million³ in connection with their Aegis
21 investments, and that accrued principal and interest owing from PPCN was
22 approximately \$34 million, while the nature of PPCN's ongoing business and assets
23 could not be verified. (See, e.g., Dkt. No. 43.)

24 In the time since his substitution for Ms. Janulewicz, the Receiver has largely
25 confirmed these initial conclusions. The Aegis investment appears to have been a
26 complete failure. Based on the information obtained by the Receiver, it appears that
27

28 ³ Including reported accrued interest. Actual investor principal losses were likely smaller, but still in the millions of dollars.

1 the bulk of the funds invested in Aegis were directed to the development and
 2 operations of at least two restaurants (one in New York and the other in San
 3 Francisco), each of which failed and was closed within approximately one year of
 4 opening. Substantial investor funds appear to have been expended in connection
 5 with these restaurants, including in connection with developing their physical
 6 construction and improvements, and operations, all of which were lost when the
 7 restaurants failed and were closed.⁴ Put simply, the bulk of the funds invested in
 8 Aegis were rendered unrecoverable by the failure and closure of the restaurants
 9 funded by the investment.

10 What few Aegis-related assets remained at the commencement of the
 11 receivership in early 2015 were tied up in the then-pending bankruptcy of
 12 Metropolitan Coffee and Concession Company, LLC ("Metro Coffee"), an Aegis
 13 affiliate, and were subject to a priority claim by Strategic Funding, Inc., a senior
 14 lender. Ultimately, only \$260,000 in available assets resulted from the liquidation
 15 of Metro Coffee's assets. Ms. Janulewicz successfully negotiated for the estate of
 16 the Receivership Entities to retain \$80,000 of these funds, notwithstanding the third
 17 party, priority claim. Based upon the records obtained in connection with the Aegis
 18 investments in general, and the Metro Coffee bankruptcy specifically, the Receiver
 19 believes that the \$80,000 recovered by Ms. Janulewicz represents the entirety of the
 20 remaining funds reasonably recoverable in connection with Aegis.

21 The Receiver's investigation into PPCN ultimately led to the conclusion that
 22 PPCN was operating a Ponzi-like scheme, and that substantially all of the so-called
 23 returns on investment paid out to investors were derived exclusively from later
 24

25 _____
 26 ⁴ The Aegis restaurant investments failed in the pre-receivership period. While the
 27 Receiver was able to confirm that a substantial portion of the funds invested, and
 28 lost, in Aegis were associated with these restaurants, he continues to investigate
 possible misappropriation of investor funds by Aegis principals. To date,
 however, the Receiver has not identified or traced any recoverable Aegis-related
 funds, other than those arising in connection with the Metropolitan Coffee and
 Concession Company, LLC.

1 investor principal. On the basis of this conclusion, and in the wake of PPCN's
2 persistent failure to respond to timely redemption requests from the Receiver⁵, the
3 Receiver commenced the action now styled Seaman v. Private Placement Capital
4 Notes II, LLC, et al., USDC, SD Cal. Case No. 16-cv-0578 BEN (DHB) (the "PPCN
5 Action"), in an effort to recover investor principal, plus accrued interest.

6 As of the date of this Report, the Receiver has not obtained any information
7 supporting the accuracy of many of PPCN's representations to the Receivership
8 Entities, their investors, or the Receiver, regarding the nature of PPCN's investments
9 and holdings. As the reflected in prior submissions to the Court, PPCN maintained
10 that it held significant ownership stakes in, among other things, the real property
11 commonly known as the Melrose Resort on Daufuskie Island, South Carolina (the
12 "Resort"), and in a Utah gypsum mine operated by Good Earth Minerals, LLC (the
13 "GEM mine"). The results of the Receiver's investigation suggest that, at best,
14 PPCN held contingent or fractional interests in the Resort and the GEM mine.

15 Unfortunately, the manner in which investor funds were expended in
16 connection with the Resort and the GEM mine makes them entirely unrecoverable..
17 For example, most of the PPCN funds appear to have gone into contingent or
18 fractional ownership interests entities with record ownership interests in the Resort
19 (the "Daufuskie Entities"). The Daufuskie Entities filed for bankruptcy protection in
20 the United States Bankruptcy Court for the District of South Carolina on March 7,
21 2017. The Receiver filed protective proofs of claim were filed in each of the
22 Daufuskie Entities' bankruptcy cases; however, there is little or no prospect for
23 recovery. Instead, these proofs of claim were filed to protect the Receiver's right to
24 the value of any possible fraudulent transfer claims that the Receiver may have
25 against the Daufuskie Entities, in the event that investor funds can be directly traced
26 to the Daufuskie Entities or their principals.

27

28 ⁵ As of the date of this Report, PPCN has never formally responded to the
Receiver's redemption requests.

1 Ultimately, the assets of the Daufuskie Entities' collective bankruptcy estate,
2 including the Resort, were sold via an auction sale. The successful high bidder was
3 a lender with a secured claim exceeding \$34 million. Not surprisingly, the lender
4 credit bid its secured debt to purchase price the assets at the auction. There do not
5 appear to be any other funds available for distribution to creditors from the
6 Daufuskie Entities' bankruptcy estate nor to otherwise satisfy a fraudulent
7 conveyance judgment, assuming, *arguendo*, that one could be secured.

8 As a result of the above, the Receiver's asset recovery efforts have largely
9 focused on three potential sources of recovery: any remaining funds recoverable
10 from PPCN and its principals; funds recoverable from pre-receivership counsel
11 whose advice the Receiver believes led to Receivership Entity liability; and
12 proceeds of sales of real and personal property owned by Mr. Cooper and recently
13 released, subject to certain conditions, from the asset freeze imposed by the
14 Appointment Order. The Receiver's specific recovery efforts during the Reporting
15 Period have been as follows:

16 1. The PPCN Action.

17 As reflected in prior submissions to the Court, the Receiver has confirmed
18 that the Receivership Entities invested at least \$24,000,000 in PPCN, which
19 investments were memorialized by the issuance of so-called promissory notes by
20 PPCN. This investment constituted at least 70% of the total investment in PPCN.
21 Moreover, at least \$11,200,000 in interest accrued to the Entities in accordance with
22 the promissory notes has not been paid, and instead was added by PPCN to the
23 balance of the Entities' investments as purported "reinvestment." PPCN has ignored
24 a Receiver redemption request for approximately \$16 million in eligible promissory
25 notes for more than a year.

26 The Receiver commenced the action now styled Seaman v. Private Placement
27 Capital Notes II, LLC, et al., USDC, SD Cal. Case No. 16-cv-0578 BEN (DHB) (the
28 "PPCN Action") on March 7, 2016. By his prosecution of the PPCN Action, the

1 Receiver seeks to recover the funds invested in PPCN, along with interest accrued
2 on the PPCN promissory notes.

3 The PPCN Action was transferred to this Court on March 22, 2016. On
4 March 29, 2017, this Court entered an order granting the motion to compel, in part,
5 and staying the litigation pending at least limited arbitration proceedings to be held
6 in the Southern District of California. PPCN has since appealed that order to the
7 Ninth Circuit Court of Appeal, which recently advised the parties that it intends to
8 request briefing on multiple issues relating to the PPCN Action, including, but not
9 limited to, the arbitrability issue.

10 As of the date of this Report, the Receiver and PPCN have participated in a
11 case assessment conference before the Ninth Circuit, and agreed upon a general
12 process for settlement discussions. A briefing schedule has yet to issue. While the
13 Receiver remains amenable to a resolution of the PPCN Action by settlement – and,
14 indeed, encourages PPCN to make a reasonable settlement offer, he intends to
15 pursue the prosecution of the PPCN Action so long as he believes it is in the best
16 interests of the Receivership Entities.

17 2. The Malpractice Action.

18 As previously reported to the Court, the Receiver has concluded that the
19 relevant Receivership Entities' failure to disclose the existence of revenue-sharing
20 agreements and their attendant conflicts of interest, were caused, or aided and
21 abetted by, the advice of certain of the Entities' pre-receivership attorneys, including
22 those who specifically prepared the disclosure language that led to the judgment
23 against Mr. Cooper in the related SEC administrative proceeding and who, at the
24 time they prepared such language, knew or reasonably should have known of Total
25 Wealth's revenue-sharing practices.

26 On February 3, 2016, the Receiver commenced the action now styled Seaman
27 v. Lively, et al., San Diego Superior Court Case No. 37-2016-00003644-CU-PN-
28 CTL (the "Malpractice Action"), alleging malpractice and related claims against pre-

1 receivership counsel and seeking to recover damages resulting from the legal advice
2 provided. The Receiver has been substituted for Ms. Janulewicz, the original
3 receiver, in the Malpractice Action.

4 During the Reporting Period, the Receiver and his counsel coordinated with
5 opposing counsel in connection with the Receiver's appeal of demurrers brought by
6 Defendants John H. Lively, The Law Offices of John H. Lively & Associates, Inc.,
7 The 1940 Act Law Group, LLC, and the law firm Husch Blackwell (collectively, the
8 "Demurring Defendants"). The Receiver's opening briefing has been submitted in
9 the appeal, but he has granted an extension to the Demurring Defendants for the
10 submission of their responsive briefing, and is presently in settlement discussions
11 aimed at bringing the remaining portions of the Malpractice Action to an efficient
12 and appropriate resolution.

13 The Receiver has already entered into a settlement agreement with the
14 remaining Defendants in the Malpractice Action (the "Settling Defendants"),
15 submitted under seal via the First and Second Settlement Sealing Motions and
16 approved by this Court on September 22, 2017 (Dkt. No. 183). The Court-approved
17 settlement resolves both the Receiver's claims against the Settling Defendants, as
18 well as parallel malpractice claims brought by Mr. Cooper in the action styled
19 Cooper v. Jacko, et al., San Diego Superior Court Case No. 37-2015-00038876-CU-
20 PN-CTL. While the terms of the Court-approved settlement are confidential, and
21 this Court has yet to adjudicate the Receiver's and Mr. Cooper's competing claims to
22 the settlement proceeds (which funds have been paid over to the Receiver, to be held
23 in trust pending a resolution of the competing claims), the Receiver anticipates that
24 the settlement will result in a return of hundreds of thousands of dollars for the
25 benefit of the Receivership Entities and their investors and creditors.

26 3. Cooper Real And Personal Property Sales Proceeds.

27 The Receiver, the Commission, and Mr. Cooper recently agreed, via the joint
28 Cooper Property Sale Motion (Dkt. No. 154), that the asset freeze imposed by

1 Appointment Order would be lifted as to a San Diego condominium and a motor
2 boat owned by Mr. Cooper to permit Mr. Cooper to market and sell each of these
3 assets, the net proceeds of which would be deposited with the Receiver, and against
4 which the Receiver could assert a claim. Mr. Cooper recently advised the Receiver
5 that the boat has tentatively sold, resulting in just under \$2,800 in net proceeds,
6 which funds Mr. Cooper has transmitted to the Receiver.

7 **B. The Claims Process.**

8 As of the date of this Report, the Receiver holds just over \$3,014,251.17, in
9 cash, for the benefit of the Estate and its investors and creditors, in addition to
10 \$2,773.18 from the proceeds of the sale of Mr. Cooper's boat, which proceeds are
11 being held in reserve pending further order of the Court.

12 In November 2016, the Receiver filed the Claims Motion, seeking an order
13 establishing summary claims procedures, setting a claims bar date, and approving
14 his proposed claim form by which investors and other creditors of the Entities would
15 be able to register their claims for repayment against the Receivership Entities, and
16 have those claims processed by the Receiver and his staff, resulting in a
17 recommendation by the Receiver to the Court for the treatment of each claim. The
18 Claims Motion was granted on February 27, 2017. A claims bar date of May 8,
19 2017 was established in accordance with the Court's instructions.

20 The bar date has passed, and the Receiver has received a total of 311 timely
21 claims from putative investors and other Receivership Entity creditors. The
22 Receiver is currently reconciling investor and creditor claims by reviewing each
23 claim, the documentation in support of each claim, and the information in the
24 records of the Receivership Entities. The Receiver's objective is to determine each
25 investor's (or creditor's) actual net cash loss based on a money-in/money-out
26 ("MIMO") calculation; that is, the total amount that invested or contributed, less any
27 cash payments that received. Notwithstanding the simple nature of the calculation,
28 very few investors submitted claims to the Receiver that included information

1 sufficient to allow for an immediate validation of their MIMO claim. The Receiver
2 is therefore having to work through each claim individually, using information from
3 Receivership Entities' accounting records, investor K-1 tax returns, and other
4 relevant documents, in order to determine the claim amounts that he will
5 recommend for allowance.

6 Once all MIMO claims have been determined, the Receiver will finalize and
7 recommend a distribution plan which will likely include a *pro rata* distribution to
8 investors and creditors based on their MIMO losses. The Receiver may also
9 recommend tiered or otherwise modified distributions to advance his equitable
10 goals; for example, if many investors received little or no cash from the
11 Receivership Entities, and others investors received a majority of their investment
12 back, the Receiver might propose a so-called rising tide or similar distribution plan,
13 which would limit the distribution amounts paid to those who previously received
14 returns, while increasing the distribution amounts paid to those with greater
15 percentage losses.

16 **IV. RECEIVER'S RECOMMENDATIONS.**

17 Given that the Receiver's asset recovery efforts remain ongoing and that he is
18 currently processing claims, the Receiver recommends continuing the receivership
19 to permit the following:

20 **A. Continue Prosecution Of Or Resolve PPCN Action.**

21 As of the date of this Report, PPCN has made no settlement offer to the
22 Receiver, although it has not disputed that it received, and failed to pay back
23 millions in investor principal. The Receiver is hopeful that PPCN will reengage
24 with the Receiver, to discuss potential settlement, in lieu of continuing to incur the
25 expense of litigation.

26 **B. Resolve Competing Claims To Malpractice Action Settlement.**

27 As noted above, the Malpractice Action has been settled with respect to the
28 Settling Defendants. The Receiver has received the payment called for in the

1 settlement and he is holding the funds pending an adjudication of his and
2 Mr. Cooper's competing claims to the settlement proceeds. The Receiver intends to
3 propose a briefing schedule to Mr. Cooper and his counsel in the hopes of bringing
4 the competing claims before the Court.

5 **C. Continue Prosecution Of Or Resolve Malpractice Action.**

6 As noted above, the Malpractice Action has been settled with respect to all
7 parties, except the Demurring Defendants, which parties are presently subject to an
8 appeal of their successful Demurrers. Counsel for the Receiver and the Demurring
9 Defendants remain engaged in settlement discussions.

10 **D. Proceed With Sale Of Cooper Assets, And Resolve Rights To Sales**
11 **Proceeds.**

12 Mr. Cooper has completed the sale of one of his personal property assets, but
13 potentially the most valuable – his San Diego condominium – has yet to be sold.
14 The Receiver will continue to engage with Mr. Cooper regarding the sale of the
15 condominium, and, as with the settlement proceeds resulting from the Settling
16 Defendants' payment in the Malpractice Action, expects to petition this Court for an
17 adjudication of his, and Mr. Cooper's, competing claims to the proceeds resulting
18 from the sales of Mr. Cooper's property.

19 **E. Complete Claims Process.**

20 Once all claims processing has been completed and a proposed distribution
21 plan developed, the Receiver will submit a motion to the Court seeking approval of
22 his proposed distribution plan and recommended treatment of claims.

23 **F. Submit Further Reports To The Court.**

24 The Receiver expects to submit further interim reports to this Court
25 addressing his progress, findings, conclusions, and further recommendations,
26 approximately every 90 to 120 days.

27
28

1 **G. Submit Interim Fee Applications.**

2 The Receiver and his professionals expect to submit, within the next forty-
3 five (45) days, their next interim applications for payment of fees and
4 reimbursement of expenses, likely to cover the period from January 1, 2017 through
5 July 31, 2017.

6 **V. CONCLUSION.**

7 On the basis of the information presented, above, the Receiver respectfully
8 requests that the Court enter an order:

- 9 1. Accepting the Fifth Interim Report;
- 10 2. Instructing the Receiver to continue to administer the Receivership
11 Entities in accordance with the terms of the Appointment Order;
- 12 3. Instructing the Receiver to undertake the recommendations presented
13 herein; and
- 14 4. Providing such other and further relief as the Court deems necessary
15 and appropriate.

16
17 Dated: October 30, 2017

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
JOSHUA A. DEL CASTILLO
MELISSA K. ZONNE

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20 By: /s/ Joshua A. del Castillo
21 JOSHUA A. DEL CASTILLO
22 Attorneys for Receiver
23 THOMAS SEAMAN
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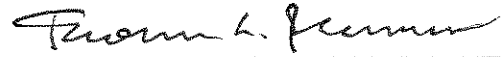
VERIFICATION

I have read the foregoing FIFTH INTERIM REPORT OF RECEIVER,
THOMAS A. SEAMAN, and know its contents.

I am the Receiver appointed in the above-entitled action. The matters stated
in the foregoing document are true, to the best of my knowledge.

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

Executed on October 30, 2017 in Irvine, California.



THOMAS A. SEAMAN

PROOF OF SERVICE

Securities and Exchange Commission v. Total Wealth Management, Inc., et al.
USDC, Southern District of California – Case No. 15-cv-226 BAS (DHB)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

FIFTH INTERIM REPORT AND PETITION FOR INSTRUCTIONS OF RECEIVER, THOMAS A. SEAMAN

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **October 30, 2017**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Vincent J. Brown**
vince@vjblaw.com,vjblaw@gmail.com
- **John Bulgozdy**
bulgozdyj@sec.gov,larofiling@sec.gov,berryj@sec.gov,
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- **Mikel R. Bistrow**
bistrowm@ballardspahr.com, burkee@ballardspahr.com

2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On **October 30, 2017**, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit.

Franchise Tax Board (FTB) **Via U.S. Mail**
P.O. Box 2952
Sacramento, CA 95812-2952

Internal Revenue Service **Via U.S. Mail**
880 Front Street
San Diego, CA 92101-8869

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **October 30, 2017** at Los Angeles, California.



Martha Diaz