

**STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY**

ANITA G. FOX, DIRECTOR OF THE
MICHIGAN DEPARTMENT OF
INSURANCE AND FINANCIAL
SERVICES,

Petitioner,

v

PAVONIA LIFE INSURANCE COMPANY
OF MICHIGAN,

Respondent.

Case No. 19-504-CR

HON. WANDA M. STOKES

[IN REHABILITATION]

**NOTICE OF HEARING
MOTION FOR EMERGENCY RELIEF
IN THE FORM OF SPECIFIC PERFORMANCE**

PLEASE TAKE NOTICE that Aspida Holdco, LLC's Emergency Motion for Relief in the Form of Specific Performance shall come before the Court for hearing on a date and time set by the Court.

Dated: July 1, 2020

Respectfully submitted,

ASPIDA HOLDCO, LLC

By: */s/ Lori McAllister*

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[IN REHABILITATION]

**BUYER ASPIDA HOLDCO, LLC'S
MOTION FOR EMERGENCY RELIEF
IN THE FORM OF SPECIFIC PERFORMANCE**

Aspida Holdco, LLC (“Buyer”), through its attorneys, hereby moves this Court for emergency relief in the form of specific performance pursuant to MCL 500.8105 and MCR 2.119(C)(1). In support of its Motion, Buyer states:

1. As this Court is well aware, Buyer entered into a Stock Purchase Agreement (“SPA”) with Seller which results in the protection of the policyholders, creditors, employees, and the general public by, in part, removing Greg Lindberg, a convicted felon, from the ultimate control of Pavonia Life Insurance Company of Michigan (“Pavonia”). The Plan of Rehabilitation, originally approved by this Court on March 9, 2020, and again on June 25, 2020, requires the Buyer and Seller to promptly complete the transaction.

2. As set forth in the attached Brief in Support, and notwithstanding the terms of the Rehabilitation Plan and the clear Order of this Court, Seller has refused to cooperate with the steps necessary to close the transaction, including delivery of the Estimated Closing Statement and signing the Closing documents.

3. Buyer seeks the urgent and immediate involvement of the Court in ordering and compelling Seller's specific performance of its obligations under the SPA. Good cause exists to consider this Motion on an emergency basis, as Closing of the transaction is required by June 30, 2020, and Seller has not cooperated in any way in finishing the Closing deliverables. Further, the Rehabilitator has made it clear to the parties that he will seek appropriate relief from the Court in the event that the Closing does not occur on time.

4. Buyer requests that the Court compel the final actions for Closing to avoid further delay and permit the Court-approved Plan to be finally effectuated to protect Pavonia's policyholders, creditors, its subsidiary entity, GBIG, LLC, and the general public.

Wherefore, the Buyer requests that the Court give emergency consideration to this Motion and enter an Order with the following terms:

a. Compelling Seller to specifically perform its SPA obligations in accordance with SPA Sec. 14.14, without posting of a bond or other security, and close the transaction by close of business on Friday July 3, 2020; and

b. Enjoining and prohibiting Mr. Lindberg and Seller from taking any action, or failing to act in any way, that impedes the Plan and/or the Closing; and

c. Enjoining and prohibiting Mr. Lindberg and Seller and their affiliates, associates, agents and representatives from directly or indirectly soliciting a transaction

that involves a pledge or sale of Pavonia's stock or similar transaction to anyone other than Buyer; and

d. Enjoining and prohibiting Mr. Lindberg and Seller, their affiliates, associates, agents and representatives to immediately cease all discussions, negotiations or transactions with any potential lender, counterparty, broker or agent contacted regarding the same, and otherwise comply with Section 8.09 of the SPA without further violation; and

e. Compelling Mr. Lindberg and Seller, their affiliates, associates, agents, and representatives, pursuant to SPA Sec. 8.09 to produce to DIFS and Buyer any "unsolicited offer" that either one of them has made or received, or receives, including, without limitation, offers with respect to recapitalization, sale, transfer or pledge of Pavonia's stock; and

f. Finding Mr. Lindberg and Seller in violation of the Plan and Michigan law, and issuing appropriate sanctions to redress their contemptuous behavior.

Dated: July 1, 2020

Respectfully submitted,

ASPIDA HOLDCO, LLC

By: /s/ Lori McAllister

Lori McAllister

Stephen W. Schwab

Carl H. Poedtke III

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HON. WANDA M. STOKES

[IN REHABILITATION]

**REDACTED
VERIFIED BRIEF IN SUPPORT OF ASPIDA HOLDCO, LLC'S
MOTION FOR EMERGENCY RELIEF
IN THE FORM OF SPECIFIC PERFORMANCE**

Seller GBIG Holdings, Inc. is actively attempting to obstruct the rehabilitation and sale of Pavonia Life Insurance Company of Michigan (“**Pavonia**”) because the Buyer, Aspida Holdco, LLC, will not pay Seller more money than was previously agreed. Seller continues to violate Michigan Law, the Court’s July 9, 2019 Rehabilitation Order, the fully approved Rehabilitation Plan, and the Plan’s lynchpin Stock Purchase Agreement (“**SPA**”). There is now good cause to believe that Seller is seeking financing using the stock of Pavonia as collateral, in violation of the SPA, in order to conduct another long, contentious, difficult sales process during which value will deteriorate and staff will leave, or to contest the Rehabilitation and seek to retake control of Pavonia. As a result, the security of Pavonia’s policyholders and the staff of Pavonia’s services

administrator GBIG, LLC (“**ServiceCo**”) remain at risk due to the intentionally invasive and disruptive action of convicted felon Greg Lindberg. Buyer has no choice but to request the Court’s urgent and immediate attention and order prohibiting such conduct and compelling performance of the SPA as agreed.

BACKGROUND

Buyer fully incorporates herein all of the arguments set forth in its Objection to [Seller’s request for] Adjournment, or in the Alternative, Motion for Specific Performance (“**Specific Performance Motion**”), and will limit duplication so as not to burden the Court with identical assertions from its earlier submission and argument.

The Court’s June 25 and 29 Orders

On June 25, 2020, the Court entered its Order Approving Plan of Rehabilitation . . . (“**Final Approval Order**”) at the conclusion of the hearing on the Rehabilitator’s Motion for Final Order (filed May 18). The Rehabilitator’s Motion for Final Order had been fully briefed, including Seller’s response requesting adjournment (filed June 11), the Rehabilitator’s reply (filed June 19), Buyer’s Specific Performance Motion (filed June 22), and Seller’s response to Buyer’s Specific Performance Motion (filed June 24). During the hearing, the Court declared: “And we do need at some point I think we need to be prepared to move this forward, and [if] it is not happening with the negotiations between the[m] – between all of the purported part[ies] th[en] I mean it’s – I think this Court has got to step in, otherwise this thing could go on forever.” Transcript of Hearing June 25, 2020 (submitted herewith) at 18, L 6-10.

On June 29, the Court amended its June 25 Order and referenced an extended closing date of no later than July 31, 2020. When it entered this amended order, the Court was unaware of additional information troubling facts and circumstances related to Seller’s delay and other

obstruction. No doubt the Court will be surprised to learn that Seller now denies that the Final Approval Order requires it to close, whether on June 30 or July 31, because it is not “final.” **Ex. A**, Email from Zachary Larsen, June 29, 2020. This latest position is based upon a plain misreading of the SPA. The Court’s June 25 Final Approval Order is referenced in the SPA as the “Rehabilitation Court Confirmation and Final Approval Order” at 18 and Ex. G. (Section 11.01(f) “Rehabilitation Court Confirmation and Approval Order. The Rehabilitation Court Confirmation and Approval Order shall have been finally entered and approved by the Rehabilitation Court, and the Rehabilitation Court Confirmation and Approval Order shall be a Final Order.”); the SPA does not require that the order be nonappealable. “Final Order” definition in the SPA at 9 (“Final Order’ means a Governmental Order that has not been reversed, vacated, modified or amended, is not stayed and remains in full force and effect, and, if the form thereof is attached hereto as an Exhibit, is substantially in the form attached hereto.”) If Seller was correct – and it is not – the subject transaction might never close.

Either way, the Rehabilitator is now required to implement the Plan pursuant to MCL 500.8114(4) (“If the plan is approved, the rehabilitator shall implement the plan.”), and aside from Seller’s recalcitrance and a continuous and ongoing series of breaches, there are no impediments to Closing.

Satisfaction of Closing Conditions

The Conditions to Closing and Related Matters, and the Conditions to Obligations of Seller and Buyer set forth in SPA Sec. 11.01 and 11.02, respectively, either have been satisfied, waived, or will be satisfied at Closing as required by SPA Sec. 3.01. However, Seller is withholding essential Closing documents that are fully within its capability to complete and deliver. Indeed, Seller refuses to comply with the simplest of Closing obligations.

On Saturday, June 27, Buyer's counsel forwarded to Seller's counsel the requisite transaction signature pages and requested that they be signed and delivered for holding in escrow pending Closing. Buyer's counsel also requested the "Estimated Closing Statement" which has been described extensively in briefing and hearing on the Rehabilitator's Motion for Final Order, the wire transfer instructions for payment of the purchase price at Closing, and a Form W-9. **Ex. B**, Email from Wenhong You, June 27, 2020 (attachments omitted). Seller had not provided any of these. The Estimated Closing Statement and the wire instructions were required to be delivered on June 25, 2020, three business days prior to Closing.

As reflected in an email dated Friday June 26, 2020, Pavonia and ServiceCo's Chief Financial Officer ("CFO") Brian Stewart provided to Seller's counsel all of the necessary information for preparation of the Estimated Closing Statement. **Ex. A** (attachments omitted).

On June 26, 2020, at 1:33pm Mr. Stewart wrote, in part:

I am proactively sending you the documents listed below to assist you in the preparation of the Estimated Closing Statement. I believe the only remaining item you require is the closing date loan balance, which I understand Ares/DLA provided to you yesterday. I have included any comments relevant to your preparation, but let me know if you have any questions or need additional assistance in preparation of the Statement. Upon your delivery of the Estimated Closing Statement using the figures contained in these files I will sign the CFO certificates.

(Attachments omitted.)

The Due Diligence "Books and Records" Issue

In the next hour, in connection with Seller's SPA obligation to assure that Buyer receives Pavonia's books and records at Closing, Seller's counsel "request[ed] that GBIG Holdings be provided with all the books and records of Pavonia - including those documents provided in the Ares data room as part of the deal." (*Id.*). (the Ares data room is also known as "the Intralinks

electronic data room for Project Triangle.”) Counsel also noted Seller’s obligation to deliver a Management Certificate.

The Court will recall that title to, and possession and control of, Pavonia’s books and records reposes by statute and the Rehabilitation Order in the Rehabilitator. MCL 500.8113; Rehabilitation Order at 11-12 paras. 3, 4. Accordingly, neither Seller nor Mr. Lindberg is entitled to receive or have access to such material without the Rehabilitator’s consent.

When asked whether access to materials was being requested solely for purposes related to the SPA and closing, Seller’s counsel did not respond. Accordingly, Mr. Kerr responded to Seller’s request as follows:

After reviewing Mr. Larsen's e-mail, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore would be interested in knowing whether it would be acceptable to the Buyer for the Rehabilitator to turn over the books and records of the Company at closing to the Buyer. We have not seen the language of the Management Certificate, but I am willing to verify the books and records are true and accurate for the period the Pavonia Entities were in rehabilitation. If the Certificate extends beyond the period of rehabilitation, we would propose that Brian Stewart verify them as the CFO of GBIG, LLC.

Please let us know your thoughts on these proposals.

(Ex. A at 4:18 p.m.)

In the same email string, Buyer indicated it could accept a Management Certificate from the CFO of the Acquired Companies. (*Id.* at 4:39 p.m.; see also **Ex. C**, Email from David Luce June 26, 2020.) Buyer subsequently requested that the Rehabilitator instruct Pavonia management to prepare the Estimated Closing Statement – which must be certified by the CFO of Pavonia – and to confirm or provide certain amounts to be included in the ancillary agreements being executed at Closing. Management has in fact provided such Statement. **Ex.**

D, Email from Brian Stewart June 30, 2020 (attachments omitted). At this point Seller has an Estimated Closing Statement to deliver, as it contractually agreed. But now Seller’s counsel refuses to accept any Statement it does not prepare itself. *id.* Notwithstanding that the SPA requires the Seller to “cause to be prepared and delivered to Buyer” the Statement, and to “cause to be prepared and delivered to Buyer certificates of the chief financial officer of each Acquired Company” as to the Estimated Closing Statement, the SPA simply does not contemplate that the Seller would itself prepare the Statement.

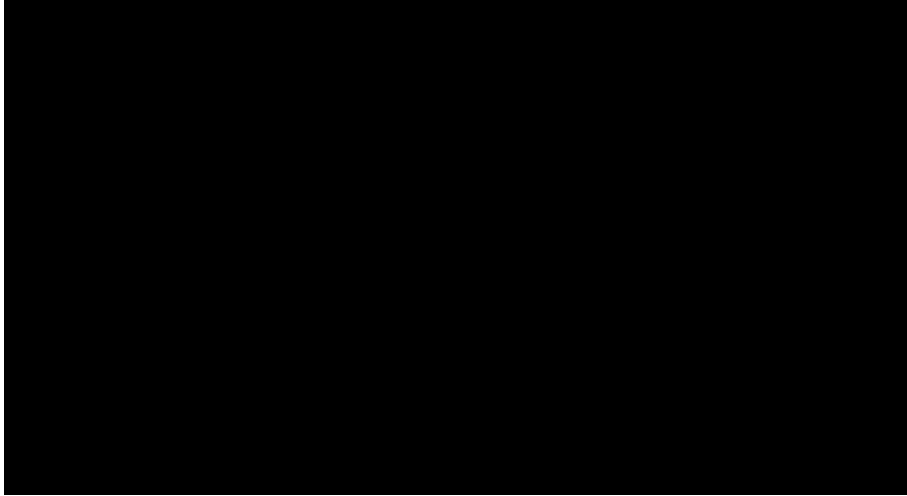
Late in the evening of Sunday June 28, Mr. Lindberg sought to circumvent the Rehabilitator by requesting that his discharged legal counsel provide access to the Intralinks electronic data room for Project Triangle. That counsel then contacted management of the Acquired Companies to request the Intralinks data room – now part of the books and records of the Acquired Companies. **Ex. F**, Email from June 28, 2020.

Seller would have the Rehabilitator believe that it needs access to the Intralinks electronic data room for Project Triangle in order to update Seller’s SPA representations and warranties as of Closing. This is a pretext, plain and simple, because it is unnecessary and because Seller and Mr. Lindberg hope to hide their unlawful actions from the Rehabilitator and the Court. In short, Seller is not able to change its representations or warranties in anticipation of Closing. Moreover, almost a year after signing the SPA, and days and hours before closing, the possibility of which Seller has been aware of for months, Seller suddenly makes this claim. When asked by both Buyer and by the Rehabilitator, Seller’s counsel has repeatedly refused to confirm that Seller has fully disclosed all reasons for which it needs the books and records. Their silence is deafening, and reveals that this request is merely a transparent ruse to enable the Seller to obtain and use the books and records to facilitate its breach of its “no-shop” obligations.

Seller does not need the Intralinks electronic data room for Project Triangle because (i) ServiceCo provided the Intralinks materials to Buyer last year (**Ex. E**); (ii) nothing in the data Seller provided to Buyer during due diligence before the parties executed the SPA July 9, 2019 bears on Pavonia's current financial condition or assets, and (iii) the Plan obligated "the Rehabilitator [to] cause the Company to conduct its business in the ordinary course and in accordance with [Michigan Insurance Code] Chapter 81 and this Plan" (Plan at 16.) The Rehabilitator most recently represented to the Court that she had done so, and the Court so found. Final Approval Order par. 9 at 5. More to the point, Seller cannot change the representations and warranties under the SPA, so there is nothing that the Seller or its counsel can modify and there is nothing for Seller to bring forward. In short, Seller's review of any such information is entirely unnecessary. See **Exhibit D**.

Seller is Shopping Pavonia's Stock

Buyer previously advised the Court that Seller may be attempting to sell or pledge the stock of Pavonia to a third party in violation of the SPA and the Plan. Accordingly, on June 17, 2020, Buyer sent a request under SPA Sec. 8.09 (Buyer's Specific Performance Motion Ex. F) that the Seller share any alternative proposals or inquiries received, as required to be promptly disclosed under SPA Sec. 8.09. Seller's counsel admitted that Independent Insurance Group has continued to seek a purchase of Pavonia (see Seller's June 24 Response at 8), and boldly declared during the hearing that Seller was not "shopping" Pavonia. (This would not be the first time that Mr. Lindberg has kept his counsel in the dark.)



The Buyer will produce this message and related information to the Court under protection of confidentiality. The Court should compel Mr. Lindberg, Seller, their affiliates, agents and representatives to produce the unredacted copy of this communication and any related information.

Seller and Mr. Lindberg are plainly engaged in an artifice, ruse or fraud to obtain from the Rehabilitator financial and other information so that they may solicit a transaction that involves a pledge of Pavonia's stock (such as a refinancing of Buyer's \$25 million loan to Mr. Lindberg) or a sale of the stock to anyone other than Buyer.

The actions of Seller, Mr. Lindberg and Eli Global are unlawful. Each of them is bound by the SPA's proscription of non-solicitation. The SPA provides:

From and after the date of this Agreement, Seller shall not, and shall cause its Affiliates and its and its Affiliates' respective Representatives not to, directly or indirectly,

- (a) solicit, initiate, encourage, respond to or facilitate any inquiry, indication of interest, proposal or offer from any Person other than Buyer or its Representatives (an "Alternate Bidder") relating to or in connection with a proposal or offer for, or inquiry in connection with, a merger, consolidation, *recapitalization*, reorganization, liquidation or other direct or indirect business combination, bulk reinsurance, business combination, sale *or transfer of properties or assets or sale of any Capital Stock* (including by way of a tender or exchange

offer), or similar transaction involving the Acquired Companies or any part of the Business, whenever conducted . .

..

SPA Sec. 8.09.

In addition to Seller's prior breaches of the SPA for which Buyer has delivered default notices pursuant to SPA Sec. 7.03, the most recent solicitation of Equitable is a further breach and violation of SPA Sec. 8.09 ("Exclusivity"), and a stark example of Mr. Lindberg's and Seller's joint behavior flaunting the authority of this Court,

On June 26, 2020, the Rehabilitator's counsel, Mr. Kerr, issued the following warning on the Rehabilitator's behalf:

Notice to Seller, Buyer, and Pavonia Entities:

This notifies the parties that based on the Court's ruling yesterday granting final approval to the Plan of Rehabilitation ("Plan"), the Rehabilitator fully expects the parties to close on the transaction pursuant to the Plan-incorporated Stock Purchase Agreement by June 30, 2020. Any failure to close by this deadline without good cause or mutual agreement of the parties approved by the Rehabilitator will be deemed by the Rehabilitator to constitute obstruction and/or interference with the Court-approved Plan and the conduct of this rehabilitation proceeding, in violation of MCL 500.8105(1)(c), MCL 500.8106(2), and paragraphs 18 and 19 of the Rehabilitation Order. The Rehabilitator will seek all available remedies against any party engaging in such obstruction and/or interference, including but not limited to the following remedies under MCL 500.8106(4) and paragraph 19 of the Rehabilitation Order:

- (a) A sentence requiring the payment of a fine not exceeding \$10,000.00, or imprisonment for a term of not more than one year, or both; and
- (b) After a hearing, the imposition by the DIFS Director of a civil penalty not to exceed \$10,000.00, or the revocation or suspension of any insurance licenses issued by the Director, or both.

The Rehabilitator appreciates the parties' anticipated cooperation in consummating a timely closing of the transaction. Thank you.

Ex. G. The Rehabilitator's counsel supplemented this warning on June 30. Ex. A.

The Rehabilitator's counsel sent a subsequent communication to Seller's counsel on June 29 concerning the books and records request and closing:

During today's call, Seller represented that it could not yet close because it is awaiting turnover of the entirety of the Pavonia Entities' books and records. As indicated below and during today's call, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore will handle the turnover of the Pavonia Entities' books and records to the Buyer at closing. In addition, Buyer has agreed that the Management Certificates attesting to the Pavonia Entities' solvency can come from the CFO of the Pavonia Entities, not the Seller. For these reasons, Seller has not put forward any reasonable justification for acquiring the entirety of the Pavonia Entities' books and records, nor has it reasonably limited its request to specified books and records that are truly needed to fulfill its perceived obligations under the SPA. Moreover, although asked to "confirm that the materials have been requested solely for purposes related to the SPA and closing," no such confirmation has been forthcoming from Seller.

Under these circumstances, the Rehabilitator declines Seller's request for the entirety of the books and records of the Pavonia Entities. They are not needed to close the transaction, which the Rehabilitator expects to occur tomorrow, June 30, 2020.

Ex. E.

ARGUMENT

Seller's actions (or inaction, as concerns the Estimated Closing Statement) are a direct violation of this Court's Rehabilitation Order, the SPA, and the Plan. Seller is plainly obstructing, interfering with and failing to cooperate with the Rehabilitator and the Plan in violation of MCL 500.8105 and 8106, and paras. 18, 19, 21 and 22 of the Rehabilitation Order. MCL 500.8105(1) (providing for injunctions or any other order to prevent interference or obstruction with the receiver or the delinquency proceedings); MCL 500.8106(1) ("An officer, manager, director, trustee, owner, employee, or agent of an insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the

commissioner in a proceeding under this chapter. The term ‘person’ as used in this section shall include a person who exercises control directly or indirectly over activities of the insurer through a holding company or other affiliate of the insurer.”); MCL 500.8106(2) (“A person shall not obstruct or interfere with the commissioner in the conduct of a delinquency proceeding”); MCL 500.8106(4) (providing for criminal and civil sanctions in relation to person “who fails to cooperate with the commissioner, or a person who obstructs or interferes with the commissioner in the conduct of a delinquency proceeding, or who violates an order the commissioner issued validly under this chapter”); Rehabilitation Order, ¶¶ 18, 19, 21 (orders pursuant to MCL 500.8105, 8106, 8114).

Seller has also breached the SPA by not “executing and delivering” “documents or instruments necessary” to Close the Transaction. SPA Sec. 7.03(a).

Buyer’s initial focus of relief to this point has been to request specific performance to mandate Closing where Seller has refused despite the occurrence of the necessary conditions, and the thereafter intentional refusal to produce final documentation. Buyer is aware of the Court’s June 29, Order amending the June 25 Order. Respectfully, the Court should further consider the dangers of: (i) Seller’s attempt to achieve financing by offering to pledge Pavonia and other insurer stock (Pavonia stock is already pledged to Buyer in respect of the SPA) for a new third party loan; and (ii) Mr. Lindberg contacting Seller’s former counsel (which firm remains unpaid for its legal services) for information previously provided in a data room one year ago that was utilized for purposes of due diligence for the SPA transaction (*i.e.*, selling Pavonia to Buyer). That former counsel then asked Pavonia’s management for that information, potentially circumventing the Rehabilitator’s denial of Seller’s request to be provided Pavonia’s books and records.

We respectfully submit that Seller was and is contractually obligated under the SPA to close June 30, 2020 at 10 a.m., and that Seller breached, and continues to breach that contractual obligation. Buyer has grave concerns for the protection of policyholders, employees and other constituencies of Pavonia given Seller's repeated bad acts and stated intent to regain control of Pavonia. Seller's delay has no lawful basis, but instead is plainly calculated to facilitate its breach of the no-shop provisions of the SPA and seek a better deal while keeping Buyer obligated as a back-up purchaser.

We therefore respectfully request that the Court clarify that the July 31, 2020 deadline is an ultimate deadline, and that Seller does not have *carte blanche* to continue to delay, stall and breach its contractual obligations to close, and must close as soon as reasonably possible under the circumstances. At this point, Seller need only sign certain signature pages, forward the Estimated Closing Statement and provide wire instructions and a W-9 to fulfill its contractual obligations.

Subject to such clarification being made by the Court, we respectfully request that the Court hereby compel the Seller to provide its closing deliverables and close the transaction as soon as reasonably practicable, and in all events by Friday July 3, 2020.

Buyer is contractually entitled to the relief sought herein. SPA Sec. 14.14 provides:

[s]ubject to any termination of this Agreement pursuant to Section 12, each of the parties hereto shall be entitled to injunctive or other equitable relief to prevent or cure any breach by the other parties of its covenants or obligations contained in this Agreement and to specifically enforce such covenants and obligations in any court referenced in Section 14.11(a) having jurisdiction, such remedy being in addition to any other remedy to which any party may be entitled at law or in equity.”

While SPA Sec. 14.11(a) contemplates a New York court, the SPA is the foundation of the Plan that has now been fully and finally approved by this Court pursuant to MCL 500.8114(4) for the rehabilitation of the Pavonia Entities. It is both clear and is necessary to

present these disputes in respect of the SPA before this Court because it is integral to the Plan and the Court has jurisdiction over the Plan and of delinquency proceedings under Chapter 81. MCL 500.8104(3) (“The circuit court for Ingham county shall have sole jurisdiction of a delinquency proceedings commenced under this chapter”).)

The circumstances necessitate the Court’s immediate attention to direct specific performance of the SPA as provided for in the Plan and, among other things to: (i) prohibit Mr. Lindberg, Seller and their affiliates and representatives from directly or indirectly soliciting a transaction that involves a recapitalization, pledge or sale of Pavonia’s stock or similar transaction to anyone other than Buyer, and enjoining Mr. Lindberg and Seller and its affiliates and their representatives to immediately cease all discussions, negotiations or transactions with any potential lender, counterparty, broker or agent contacted relating to the same; (ii) prohibit and enjoin any solicitation of any proposals or offers of any kind in respect of the Pavonia Entities; (iii) comply with SPA Sec. 8.09; and (iv) direct Seller to specifically perform its SPA obligations in accordance with SPA Sec. 14.14, without posting of a bond or other security.

The proper remedy for breach of the SPA is specific performance. Michigan courts have long been willing to order specific performance in cases where damages would not provide an adequate remedy for the harmed party. *See, e.g., Jaup v Olmstead*, 334 Mich 614, 55 NW2d 119 (1952); *Bohnsack v Detroit Trust Co*, 292 Mich 167, 290 NW 367 (1940). Moreover, this Court is authorized and empowered to issue an appropriate equitable remedy exercising its specifically granted statutory authority. MCL 500.8105.

Specific performance of a stock purchase is appropriate in situations where the stock is not available in the market, is unique, or has unique value to the purchaser because in such cases damages would not provide an adequate remedy. *See Bohnsack*, 292 Mich at 172-73; *Cole v*

Cole Realty Co, 169 Mich 347; 135 NW 329 (1912) (regarding a stock sale, “specific performance will be decreed and a contract enforced where the thing, . . . is rare, and cannot be obtained elsewhere, or has no market value, or the true value is difficult of ascertainment, or requires an accounting, or other peculiar circumstances of the contract involve conditions where the measure of damage in a court of law will not give full and adequate compensation.”); *Richardson v Lamb*, 253 Mich 659, 663; 235 NW 817 (1931) (holding that “a court of law could not afford adequate compensation for breach, for the reason the stock was not listed, not procurable in the market, and was difficult to obtain.”); *see also Goddard v Gladstone*, 137 NYS2d 393, 395 (1955) (“ ‘Specific performance is, however, frequently decreed where the contract involves corporate stock of a peculiar or special value to the complainant, or where the subject of the contract is of unknown and not easily ascertainable value, or when other sufficient grounds are present for the interposition.”) (citations omitted); *Sokoloff v. Harriman Estates Dev. Corp.*, 96 NY2d 409, 415 (2001) (“Specific performance is a proper remedy . . . where ‘the subject matter of the particular contract is unique and has no established market value.’”).

Not only is Pavonia’s stock unique and not available in the market, but it has a unique value to Buyer, who has pledged to protect Pavonia’s policyholders. The sale of Pavonia was agreed to as part of Pavonia’s rehabilitation to remedy two key issues: (1) Pavonia’s financial risk from its affiliation with four North Carolina insurers that are also in state court-supervised receivership due to affiliate transactions Mr. Lindberg directed, and (2) risk because it is part of an enterprise controlled by a convicted felon. The purpose of the SPA and the approved Plan, for which the SPA is the lynchpin, is to protect policyholders and creditors by separating Pavonia from these risks. Buyer has engaged in the purchase process and receivership for well over a year with the expenditure of not just substantial costs, but extraordinary effort. For these

reasons, the shares in Pavonia could not adequately compensate for a breach in any way aside from specific performance.

When possible, the parties' intent in the contract should govern the form of remedy. *See Shay v Aldrich*, 487 Mich 648, 660; 790 NW2d 629 (2010) ("The cardinal rule in the interpretation of contracts is to ascertain the intention of the parties. To this rule all others are subordinate."). "[I]f the language of a contract is unambiguous, it is to be construed according to its plain meaning." *Id.*; *see also, e.g., Bank of Am., NA v PSW NYC LLC*, 29 Misc 3d 1216(A) (2010) (New York courts favor granting equitable relief where sophisticated parties agree to such remedies "in a clear and concise document;" equitable relief granted as the parties "agreed that monetary damages would not serve as an adequate remedy at law" and "their writing should . . . be enforced according to its terms."). The parties' intent to allow specific performance as a remedy is clear from the plain language of the SPA. In a section of the SPA titled "Specific Performance," the parties agreed that "irreparable damage would occur in the event that any of the covenants or obligations contained in [the SPA] are not performed in accordance with their specific terms" SPA, Art XIV, §14.14. They also agreed that each of them would be "entitled to injunctive or equitable relief to prevent or cure any breach by the other parties of its covenants or obligations contained in this Agreement and to specifically enforce such covenants and obligations in any court . . . having jurisdiction." *Id.* Accordingly, specific performance is the proper remedy for Seller's breach of the SPA.

The remedy is fully consistent with this Court's authority to issue any order "necessary and proper" under MCL 500.8105, including but not limited to an order to prevent "Interference with the receiver or with a proceeding under this chapter," MCL 500.8105(c), or "Other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice

the rights of policyholders, creditors, or shareholders, *or the administration of a proceeding under this chapter*”, MCL 500.8105(k). (Emphasis added.)

FOR EACH OF THESE REASONS, and those stated at the June 25, 2020 hearing, the Court should enter an order:

a. Compelling Seller to specifically perform its SPA obligations in accordance with SPA Sec. 14.14, without posting of a bond or other security, and close the transaction by close of business on Friday July 3, 2020; and

b. Enjoining and prohibiting Mr. Lindberg and Seller from taking any action, or failing to act in any way, that impedes the Plan and/or the Closing; and

c. Enjoining and prohibiting Mr. Lindberg and Seller and their affiliates, associates, agents, and representatives from directly or indirectly soliciting a transaction that involves a pledge or sale of Pavonia’s stock or similar transaction to anyone other than Buyer; and

d. Enjoining and prohibiting Mr. Lindberg and Seller, their affiliates, associates, agents, and representatives to immediately cease all discussions, negotiations or transactions with any potential lender, counterparty, broker or agent contacted regarding the same, and otherwise comply with Section 8.09 of the SPA without further violation; and

e. Compelling Mr. Lindberg and Seller, their affiliates, associates, agents and representatives pursuant to SPA Sec. 8.09 to produce to DIFS and Buyer any “unsolicited offer” that either one of them has made or received or receives, including, without limitation, offers with respect to recapitalization, sale, transfer or pledge of Pavonia’s stock; and

f. Finding Mr. Lindberg and Seller in violation of the Plan and Michigan law, and issuing appropriate sanctions to redress their contemptuous behavior.

Dated: July 1, 2020

Respectfully submitted,

ASPIDA HOLDCO, LLC

By: */s/ Lori McAllister*

Lori McAllister
Stephen W. Schwab
Carl H. Poedtke III
Its Attorneys

Lori McAllister (P39501)
DYKEMA GOSSETT PLLC
201 Townsend Street, Suite 900
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444 West Lake Street, Suite 900
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carl.poedtke@us.dlapiper.com

*Attorneys for Interested Party ASPIDA
HOLDCO, LLC*

118738.000001 4814-3955-8849.1

VERIFICATION


STATE OF California
COUNTY OF Los Angeles ss.

David Reilly, a Partner of Ares Management Corporation ("Ares"), Head of Ares Insurance Solutions, and a Director of Aspida Holdco, LLC ("Aspida"), being first duly sworn, deposes and states that he has read the foregoing *Verified Brief in support of Aspida Holdco, LLC's Motion for Emergency Relief in the form of Specific Performance*, that he caused staff persons under his direction and Aspida's legal counsel to make examination of the books and records of Aspida and Ares and the materials referenced in the Brief, and report directly to him in respect of the factual statements made in such Brief, and that he verifies the factual content of the Brief for and on behalf of Aspida and that he is duly authorized to do so; and that the factual matters contained in the Brief are true to his personal knowledge and/or are true to the best of his knowledge, information and belief.



David Reilly

Subscribed and sworn to before me,
a Notary Public in and for said county,
this 30 day of June, 2020

Notary Public, 
My commission expires: Dec. 18, 2020

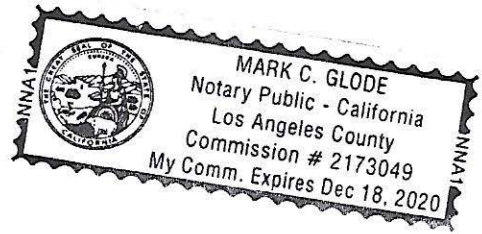


EXHIBIT A

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>

Sent: Tuesday, June 30, 2020 11:17 AM

To: Larsen, Zachary C. <ZLarsen@clarkhill.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>

Cc: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Luce, David <david.luce@us.dlapiper.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

[EXTERNAL]

Zach:

It is our understanding that Seller has been provided with all records and reports necessary to prepare an Estimated Closing Statement. Further, Brian Stewart, at the request of the Rehabilitator, prepared an Estimated Closing Statement for Buyer's and Seller's review and approval. To the extent Seller believes there are particular records or documents that it still needs to fulfill some other obligation it has under the SPA, please identify those documents or records with specificity and we will further consider the request.

As you know, Buyer has alleged that Seller is attempting to solicit another buyer and that Seller has requested Pavonia's books and records as a premise for providing information to another potential buyer. Solicitation of another potential buyer is a violation of the Rehabilitation Plan that was approved by the Court and, if true, could result in the Rehabilitator seeking the imposition of contempt sanctions and/or injunctive relief. Further, the Rehabilitator's concerns that the Seller is seeking another potential buyer have not been allayed because Seller has failed to provide explicit assurances that its sole reason for requesting Pavonia's books and records is for the purposes of preparing and/or confirming the accuracy of the Estimated Closing Statement and closing on the SPA.

Thank you.

Christopher Kerr
Assistant Attorney General and
Counsel for the Rehabilitator

From: Larsen, Zachary C. <zlarsen@clarkhill.com>

Sent: Monday, June 29, 2020 9:06 PM

To: Kerr, Christopher (AG) <KerrC2@michigan.gov>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>

Cc: Schwab, Stephen W. <stephen.schwab@dlapiper.com>; 'david.luce@dlapiper.com' <david.luce@dlapiper.com>;

Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

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Chris,

We do not concur in the delivery of the Estimated Closing Statement by Pavonia on terms that are not acceptable to Seller. Delivery of the Estimated Closing Statement is not simply an obligation of Seller but also a right of the Seller. It sets—among other things—the Closing Purchase Price and the amount received by GBIG upon sale. (Section 2.03(a).) We do not agree to delegate this duty to the CFO of Pavonia or the Rehabilitator. For avoidance of doubt, GBIG Holdings, Inc. does not authorize either the CFO of Pavonia or the Rehabilitator to act in any manner on its behalf at closing or otherwise.

With respect to your suggestion that Closing will occur *tomorrow*, we do not concur in closing as was indicated to be the likely case on this afternoon’s call. For one, the Court entered an order today indicating that Closing need not occur until July 31 and that all conditions to closing would likewise be judged by that anticipated closing date. The proposed Closing on terms that are not acceptable to GBIG is contrary to the Court’s entry of the order permitting seller until July 31 to close.

Additionally, we are under no contractual obligation to close by tomorrow. Section 3.01 requires closing by the end of the month in which the Condition Satisfaction occurs, unless the Condition Satisfaction “occurs ***less than three (3) Business Days*** prior to the last Business Day of such month” in which case closing must occur “on the last Business day of the month immediately following the month in which the Condition Satisfaction occurs.” The Court’s entry of an order was “less than 3 business days prior to the last day of” as the entry of the Order on June 25 did not provide GBIG three full business days to conduct the required actions to close on June 30.

Further, Condition Satisfaction under Section 11.01(e) and 11.02(i) requires the approval to be “a Final Order” which is defined as “a Governmental Order *that has not been reversed, vacated, modified, or amended . . .*” The June 25 order is expressly **not** a final order. If there were any doubt about that both that order and today’s amended order confirm that “[t]his Order does not resolve the last pending claim and does not close the case,” and neither are “final” for purposes of MCR 2.602(A), MCR 2.604(A), or MCR 7.202(A).

Moreover, the time has not passed for “vacation,” “modification,” or “reversal” of that order. To that point, the Court’s order of today, June 29, expressly modified and superseded the June 25 order such that the very *earliest* Condition Satisfaction might be construed to have occurred is upon issuance of today’s order (subject, of course, to the finality considerations mentioned).

Finally, GBIG Holdings, as the sole shareholder of Pavonia, is entitled to the documents and information requested. The Rehabilitator has not identified any basis for withholding those materials. Further, as we have stated, the SPA requires our warranties of certain representations. Because we have not been privy to these materials, we cannot in good faith make such warranties in anticipation of Closing as would be required for closing under the SPA. We are subject to exposure against the Escrow without our ability to verify. If we are not able to receive the information we are entitled to, we will be left with no choice but to seek the Court’s assistance.

Zach Larsen

CLARK HILL PLC

212 East E. Cesar E. Chavez Ave. | Lansing, MI 48906
517.318.3053 (Direct) | 517.318.3066 (Fax) | 734.883.2137 (Cell)
ZLarsen@ClarkHill.com | www.clarkhill.com

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>

Sent: Monday, June 29, 2020 5:03 PM

To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>

Cc: Schwab, Stephen W. <stephen.schwab@dlapiper.com>; 'david.luce@dlapiper.com' <david.luce@dlapiper.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

[External Message]

Seller's Counsel:

During today's call, Seller represented that it could not yet close because it is awaiting turnover of the entirety of the Pavonia Entities' books and records. As indicated below and during today's call, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore will handle the turnover of the Pavonia Entities' books and records to the Buyer at closing. In addition, Buyer has agreed that the Management Certificates attesting to the Pavonia Entities' solvency can come from the CFO of the Pavonia Entities, not the Seller. For these reasons, Seller has not put forward any reasonable justification for acquiring the entirety of the Pavonia Entities' books and records, nor has it reasonably limited its request to specified books and records that are truly needed to fulfill its perceived obligations under the SPA. Moreover, although asked to "confirm that the materials have been requested solely for purposes related to the SPA and closing," no such confirmation has been forthcoming from Seller.

Under these circumstances, the Rehabilitator declines Seller's request for the entirety of the books and records of the Pavonia Entities. They are not needed to close the transaction, which the Rehabilitator expects to occur tomorrow, June 30, 2020.

Thank you.

Christopher Kerr
Assistant Attorney General and
Counsel for the Rehabilitator

From: Luce, David <david.luce@dlapiper.com>

Sent: Saturday, June 27, 2020 3:14 PM

To: Kerr, Christopher (AG) <KerrC2@michigan.gov>; Schwab, Stephen W. <stephen.schwab@dlapiper.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>

Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>

Fraser, Alec <alec.fraser@dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

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Chris,

Having spoken to Ares, they would accept a Management Certificate from the CFO of the Acquired Companies, instead of receiving it from the CFO of the Seller.

We appreciate your attention to this matter, and are happy to discuss further.

Kind regards,

David Luce

Partner

T +1 212.335.4735

F +1 917.778.8877

M +1 646.468.9693

E david.luce@dlapiper.com

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>

Sent: Friday, June 26, 2020 4:18 PM

To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>

Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Luce, David <david.luce@us.dlapiper.com>; Poedtke, III, Carl H.

<carl.poedtke@us.dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>

Subject: RE: Project Triangle - Estimated Closing Statement

[EXTERNAL]

Stephen (sending on behalf of Jim Gerber who is having computer issues):

After reviewing Mr. Larsen's e-mail, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore would be interested in knowing whether it would be acceptable to the Buyer for the Rehabilitator to turn over the books and records of the Company at closing to the Buyer. We have not seen the language of the Management Certificate, but I am willing to verify the books and records are true and accurate for the period the Pavonia Entities were in rehabilitation. If the Certificate extends beyond the period of rehabilitation, we would propose that Brian Stewart verify them as the CFO of GBIG, LLC.

Please let us know your thoughts on these proposals.

Thank you.

James Gerber, CFE

Director of Receiverships

Department of Insurance and Financial Services -State of Michigan

(517)-284-8664

e-mail: gerberj@michigan.gov

From: Schwab, Stephen W. <stephen.schwab@dlapiper.com>
Sent: Friday, June 26, 2020 2:58 PM
To: Larsen, Zachary C. <ZLarsen@clarkhill.com>
Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Kerr, Christopher (AG) <KerrC2@michigan.gov>; Peter Nordberg (<pnordberg@eliglobal.com> <pnordberg@eliglobal.com>); Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Luce, David <david.luce@dlapiper.com>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

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Zach:

A copy of your message below has been forwarded to us. The joint regulator/governmental agency communication requirement in the SPA remains. Kindly cc us on all such communications.

Kindly confirm that the materials have been requested solely for purposes related to the SPA and closing.

Thanks.



Stephen W. Schwab, DLA Piper LLP (US)
stephen.schwab@us.dlapiper.com
Ofc. 312.368.2150 (Tie 810)
Cell 847.366.5490
Visit our [Coronavirus Resource Center](#) & [subscribe to our mailing list](#).
🌱 Please consider the environment before printing this email.

From: Larsen, Zachary C. <zlarsen@clarkhill.com>
Sent: Friday, June 26, 2020 2:27 PM
To: Brian Stewart; Colaianne, Joseph W.
Cc: Tamre Edwards; cherwig@globalgrowth.com; Lou Hensley; King, Ronald A.; Kerr, Christopher (AG); Peter Nordberg; Gregg, Randall (DIFS)
Subject: RE: Project Triangle - Estimated Closing Statement

Brian,

Thank you for providing these documents. Following up on Ron and Randall's comments on this morning's call regarding cooperation for what we need for closing, I wanted to request that GBIG Holdings be provided with the books and records of Pavonia—including those documents provided in the Ares data room as part of this deal.

As you know, Article V of the SPA requires Seller to verify "as of the date of closing" the representations contained in that article, including those relating to the financial condition and assets of the company. Additionally, as part of closing Seller is obligated to deliver the books and records of the company and a Management Certificate signed by the current Chief Financial Officer of Seller. Section 3.04(h) and (j). To effectuate those requirements, we ask that you provide this information.

Sincerely,

Zach Larsen

CLARK HILL PLC

212 East E. Cesar E. Chavez Ave. | Lansing, MI 48906
517.318.3053 (Direct) | 517.318.3066 (Fax) | 734.883.2137 (Cell)
ZLarsen@ClarkHill.com | www.clarkhill.com

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Sent: Friday, June 26, 2020 1:33 PM
To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement
Importance: High

[External Message]

Joe/Zach,

I am proactively sending you the documents listed below to assist you in the preparation of the Estimated Closing Statement. I believe the only remaining item you require is the closing date loan balance, which I understand Ares/DLA provided to you yesterday. I have included any comments relevant to your preparation, but let me know if you have any questions or need additional assistance in the preparation of the Statement. Upon your delivery of the Estimated Closing Statement using the figures contained in these files I will sign the CFO certifications.

1. 2019.12.31 GBIG Financial Stmts.pdf
2. 2019.12.31 PLICMI Financial Statements.pdf – This provides you with the 2019 General Expenses needed for calculating the 2019 portion of the Estimated Expense Overrun. This can be found on the Statement of Operations, Line 23, column 1
3. Project Triangle-Proforma Financials-GBIG_2020.06.25_CH.xlsx
4. Project Triangle-Proforma Financials-PLICMI_2020.06.25_CH.xlsx – This provides you with the Proforma 6/30/2020 YTD General Expenses needed for calculating the 2020 portion of the Estimated Expense Overrun. This can be found under the Summary of Operations, Line 23 (excel row 718), column M
5. 2019 GBIG Tax Share Analysis (2.4.20).xlsx – This provides you with the current tax receivable for PLICMI from GBIG Holdings, which can be found on row 71, column F. This amount is included in the PLICMI June Proforma Financials under Assets, Line 18.1 - Current federal and foreign income tax recoverable and interest thereon. The balance in Line 18.1 is less than the receivable from GBIG Holdings because there is an offsetting payable to the Canadian tax authority, which is not an intercompany balance.
6. Project Triangle Schedule of Banker Fees.xlsx – This provides the detail behind the fees paid/payable to Houlihan Lokey for the Fairness Opinion, which is included on row 9, column E. This was current through the opinion work completed by HL for the previously-anticipated 5/31/2020 closing so the final amount will likely be more once the final opinion is issued. I would encourage you to reach out to HL to see if there is a more current estimate.
7. LTIA Estimated Tax Payments.xlsx – This provides the detail behind the LTIA payments and the applicable payroll taxes that will be incurred by GBIG, LLC in making those payments. The amount included in row 11, column C is to be paid directly to GBIG, LLC for payment to the recipients.
8. GBIG 53 Wire Instructions.pdf – The GBIG, LLC wiring instructions are included for purposes of sending the amount related to the GBIG LTIA's.

I'm available for a call at any time if needed.

Thanks

Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, June 25, 2020 at 9:01 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

I am prepared to sign the CFO certificates with respect to the Estimated Closing Statement so please send it as soon as you have it prepared. Again, please let me know what you need from me.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, June 25, 2020 at 5:09 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

Please let me know what you need from me to complete the Estimated Closing Statement.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Tuesday, May 26, 2020 at 10:38 AM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached the final draft of the Estimated Closing Statement that GBIG Holdings needs to deliver to Ares today for closing on Friday. This reflects the final proforma financial statements for Pavonia and GBIG as of closing. I have also included the wire information for GBIG, LLC, but someone at Global Growth needs to add the wire instructions for GBIG Holdings, Inc.

Please let me know if you have any questions.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Wednesday, May 20, 2020 at 9:28 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou Hensley <lou.hensley@globalbankers.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I am providing an updated Estimated Closing Statement with the following changes:

1. The Banker Fees have been included, which reflect the amounts paid/payable to Houlihan Lokey for producing the fairness opinion, which is an obligation of the Seller in the SPA
2. The Estimated Expense Overrun has been updated to reflect a revised estimate of accruals through 5/31
3. The amount of the LTIA's has been updated to include estimated payroll taxes that would be incurred by GBIG, LLC by virtue of processing the payments (this amount is less than would be incurred by GBIG Holdings if it were to process the payments since GBIG, LLC has maxed-out on certain payroll taxes this year)

I am sending the same document to Ares for their review. Please let me know if you have any questions.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, May 14, 2020 at 2:46 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou Hensley <lou.hensley@globalbankers.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached an updated Estimated Closing Statement. I have created a revised version of the closing statement to incorporate the bifurcation of the payment between the amount paid directly to GBIG, LLC for the LTIA's and the remainder to GBIG Holdings, Inc. The original version is there as well for your reference. The numbers in here should be fairly close to final for purposes of closing at the end of this month, with the exception of Bankers Fees as I think that still needs to be discussed with Ares how that will be treated.

Let me know if you have questions or would like to discuss.

Thanks
Brian

Brian Stewart – 804.625.5427

From: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Date: Wednesday, May 13, 2020 at 4:39 PM
To: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Brian Stewart <Brian.Stewart@globalbankers.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>
Subject: Project Triangle - Estimated Closing Statement

Tamre and Brian:

We are working through the Closing Items. Has the Estimated Closing Statement been updated, and if so, please forward. Thank you.

Joseph W. Colaianne

CLARK HILL PLC
212 E. Cesar Chavez Avenue | Lansing, 48906
517.318.3029 (Direct) | 517.318.3065 (Fax) | 248.431.0769 (Cell)
JColaianne@ClarkHill.com | www.clarkhill.com

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EXHIBIT B

From: You, Wenhong <Wenhong.You@us.dlapiper.com>

Sent: Saturday, June 27, 2020 1:54 PM

To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Kupelian, Peter B. <pkupelian@clarkhill.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>

Cc: Luce, David <david.luce@us.dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; Clarke, John J., Jr. <John.Clarke@us.dlapiper.com>

Subject: Project Triangle - Closing Deliverables

Clark Hill Team,

Please find attached the following:

1. Seller's Signature Packet
2. Ancillary Agreements (Execution Versions)
 - a. Escrow Agreement
 - b. Termination and Release Agreement
3. Certificates and Other Closing Deliverables
 - a. FIRPTA Certificate
 - b. Seller Management Certificate
 - c. Seller Officer Certificate
 - d. GBIG, LLC CFO Certificate that Estimated Closing Statement Prepared IAW GAAP
 - e. PLICMI CFO Certificate that Estimated Closing Statement Prepared IAW SAP
 - f. GBIG, LLC CFO Certification of ServiceCo's Working Capital
 - g. PLICMI CFO Certification of PLICMI's RBC Ratio and Capital and Surplus
 - h. Stock Transfer Power

- i. Purchase Price Receipt
- j. Director's Actions by Unanimous Consent of GBIG Holdings, Inc. re LTIP Termination

We respectfully request that you deliver executed signature pages to the above documents (contained in the Seller's Signature Packet) as soon as possible so that they can be held in escrow pending Closing.

In addition, please provide us the following on or prior to the Closing Date:

1. Estimated Closing Statement (to be provided 3 to 7 Business Days before the Closing Date)
2. Wiring instructions (to be provided 3 or more Business Days before the Closing Date)
3. W-9 (to be provided on or prior to the Closing Date; blank form attached)

Sincerely,

Wenhong You
Associate

T +1 212.335.4538
M +1 703.618.1301
F +1 212.884.8612

E wenhong.you@us.dlapiper.com



DLA Piper LLP (US)
1251 Avenue of the Americas, 27th Floor
New York, NY 10020-1104
United States
www.dlapiper.com

EXHIBIT C

From: Larsen, Zachary C. <zlarsen@clarkhill.com>
Sent: Friday, June 26, 2020 4:54 PM
To: Christopher L. Kerr (<KerrC2@michigan.gov>) <KerrC2@michigan.gov>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Gerber, Jim (DIFS) <gerberj@michigan.gov>
Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Peter Nordberg (<pnordberg@eliglobal.com>) <pnordberg@eliglobal.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; Luce, David <david.luce@us.dlapiper.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

[EXTERNAL]

Chris, Randal, and Jim,

In my below e-mail, I have noted our obligations under the SPA Section 3.04(i) and (j) as well as under the warranties we are required to make under Article V. Under Section 13.01(a), Seller is required to indemnify Buyer for any loss resulting from “the inaccuracy or breach of any representation or warranty made by Seller in Article IV or V.” So Seller has a \$16.875M stake in whether these claims are true at the time of closing.

Notably, Mr. Luce does not say that Buyer is willing to waive its right to rely upon all of those warranties and assert claims against the escrow regarding the same. In effect, Mr. Luce would have us bound by the SPA to make these warranties as to the condition of Pavonia “as of the closing date” without having the ability to verify the same.

With respect to the assertion that Seller is “shopping” the company for sale, we have responded directly to that allegation in our pleadings to the Court. No such shopping has occurred. We have no intention to violate the no-shop provisions of Section 8.09, and Aspida’s suggestion is offensive. Please refer to page 8 of our response to Aspida’s motion.

On Jim’s proposal, unfortunately, it does not address the fact that we are making warranties backed by an indemnification and a \$16.875M escrow account.

Zach Larsen

CLARK HILL PLC

212 East E. Cesar E. Chavez Ave. | Lansing, MI 48906
517.318.3053 (Direct) | 517.318.3066 (Fax) | 734.883.2137 (Cell)
ZLarsen@ClarkHill.com | www.clarkhill.com

From: Luce, David <david.luce@dlapiper.com>
Sent: Friday, June 26, 2020 4:11 PM
To: Schwab, Stephen W. <stephen.schwab@dlapiper.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>
Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>;

cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Christopher L. Kerr (KerrC2@michigan.gov) <KerrC2@michigan.gov>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

[External Message]

Dear Mr. Kerr and Mr. Gregg:

Amplifying on Mr. Schwab's message below, we strongly oppose providing Seller with the books and records of the Company. Seller is not required to verify reps and warranties for Closing under the SPA; the reps and warranties are for Buyer's protection, and Seller must close whether or not Seller's reps and warranties are true and correct. Further, Seller need not obtain the books and records of the Acquired Companies to transfer them to Buyer; they will transfer by operation of law when the shares of PLICMI are conveyed to Buyer, and Buyer owns PLICMI. Further, while we have not reviewed Michigan law in this respect given the urgency of this matter, we suspect it requires Michigan insurance companies to retain their books and records.

The SPA defines a Management Certificate as "a certificate, dated as of the Closing Date, of the chief financial officer of Seller to the effect that each Acquired Company is Solvent as of the date hereof and as of the Closing Date". We do not believe that the entire books and records of the Company are required for delivery of this certificate. We are happy to discuss whether the Company's financial statements already provided do not suffice, or the possibility of receipt of a certificate of the CFO of the Acquired Companies rather than the CFO of the Seller.

Further, we suspect Seller is requesting this information to violate Section 8.09 of the Purchase Agreement, and that the basis of Seller's request is wholly a pretext.

Under Section 8.09(a), Seller may not:

solicit, initiate, encourage, respond to or facilitate any inquiry, indication of interest, proposal or offer from any Person other than Buyer or its Representatives (an "Alternate Bidder") relating to or in connection with a proposal or offer for, or inquiry in connection with, a merger, consolidation, recapitalization, reorganization, liquidation or other direct or indirect business combination, bulk reinsurance, business combination, sale or transfer of properties or assets or sale of any Capital Stock (including by way of a tender or exchange offer), or similar transaction involving the Acquired Companies or any part of the Business, whenever conducted;

We believe that Seller is requesting this information to provide to an Alternate Bidder, in violation of Section 8.09(a) of the Purchase Agreement. We note that a prohibited transfer or sale of Capital Stock or similar transaction would also encompass a pledge of the Capital Stock to a lender, who could then foreclose and purchase the stock or cause its sale in a secured lending transaction.

We further note that Seller still has not directly replied to our letter of June 17, 2020, asking of Seller that, if it has received any inquiry, indication of interest, proposal, offer, or other Acquisition Proposal from an Alternate Bidder, that it provide Buyer with a copy of it or, if such Acquisition Proposal is in oral form, a written summary of the terms and conditions thereof, other than an oblique reference in their brief. We will renew our request for any Acquisition Proposal under separate cover. And last, we have not yet received any word from Seller that they intend to comply with their obligation to close under the SPA.

Of course, we do not know with certainty for what purpose Seller is requesting this information. However, even if, in arguendo, it is not being requested to breach Section 8.09(a), while it is wholly within the ambit of the Rehabilitator, we respectfully submit that in a Rehabilitation premised on removing the Seller as a shareholder, that Shareholder should not be supplied with the books and records of the Company upon request.

Very truly yours,

David Luce

Partner

T +1 212.335.4735

F +1 917.778.8877

M +1 646.468.9693

E david.luce@dlapiper.com

From: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

Sent: Friday, June 26, 2020 2:58 PM

To: Zach Larsen (ZLarsen@ClarkHill.com) <ZLarsen@ClarkHill.com>

Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Christopher L. Kerr (KerrC2@michigan.gov) <KerrC2@michigan.gov>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Luce, David <david.luce@us.dlapiper.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

Zach:

A copy of your message below has been forwarded to us. The joint regulator/governmental agency communication requirement in the SPA remains. Kindly cc us on all such communications.

Kindly confirm that the materials have been requested solely for purposes related to the SPA and closing.

Thanks.



Stephen W. Schwab, DLA Piper LLP (US)

stephen.schwab@us.dlapiper.com

Ofc. 312.368.2150 (Tie 810)

Cell 847.366.5490

Visit our [Coronavirus Resource Center](#) & [subscribe to our mailing list](#).

👉 Please consider the environment before printing this email.

From: Larsen, Zachary C. <zlarsen@clarkhill.com>

Sent: Friday, June 26, 2020 2:27 PM

To: Brian Stewart; Colaianne, Joseph W.

Cc: Tamre Edwards; cherwig@globalgrowth.com; Lou Hensley; King, Ronald A.; Kerr, Christopher (AG); Peter Nordberg; Gregg, Randall (DIFS)

Subject: RE: Project Triangle - Estimated Closing Statement

Brian,

Thank you for providing these documents. Following up on Ron and Randall's comments on this morning's call regarding cooperation for what we need for closing, I wanted to request that GBIG Holdings be provided with the books and records of Pavonia—including those documents provided in the Ares data room as part of this deal.

As you know, Article V of the SPA requires Seller to verify "as of the date of closing" the representations contained in that article, including those relating to the financial condition and assets of the company. Additionally, as part of closing Seller is obligated to deliver the books and records of the company and a Management Certificate signed by the current Chief Financial Officer of Seller. Section 3.04(h) and (j). To effectuate those requirements, we ask that you provide this information.

Sincerely,

Zach Larsen

CLARK HILL PLC

212 East E. Cesar E. Chavez Ave. | Lansing, MI 48906
517.318.3053 (Direct) | 517.318.3066 (Fax) | 734.883.2137 (Cell)
ZLarsen@ClarkHill.com | www.clarkhill.com

From: Brian Stewart <Brian.Stewart@globalbankers.com>

Sent: Friday, June 26, 2020 1:33 PM

To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>

Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Importance: High

[External Message]

Joe/Zach,

I am proactively sending you the documents listed below to assist you in the preparation of the Estimated Closing Statement. I believe the only remaining item you require is the closing date loan balance, which I understand Ares/DLA provided to you yesterday. I have included any comments relevant to your preparation, but let me know if you have any questions or need additional assistance in the preparation of the Statement. Upon your delivery of the Estimated Closing Statement using the figures contained in these files I will sign the CFO certifications.

1. 2019.12.31 GBIG Financial Stmts.pdf
2. 2019.12.31 PLICMI Financial Statements.pdf – This provides you with the 2019 General Expenses needed for calculating the 2019 portion of the Estimated Expense Overrun. This can be found on the Statement of Operations, Line 23, column 1
3. Project Triangle-Proforma Financials-GBIG_2020.06.25_CH.xlsx
4. Project Triangle-Proforma Financials-PLICMI_2020.06.25_CH.xlsx – This provides you with the Proforma 6/30/2020 YTD General Expenses needed for calculating the 2020 portion of the Estimated Expense Overrun. This can be found under the Summary of Operations, Line 23 (excel row 718), column M
5. 2019 GBIG Tax Share Analysis (2.4.20).xlsx – This provides you with the current tax receivable for PLICMI from GBIG Holdings, which can be found on row 71, column F. This amount is included in the PLICMI June Proforma Financials under Assets, Line 18.1 - Current federal and foreign income tax recoverable and interest thereon. The balance in Line 18.1 is less than the receivable from GBIG Holdings because there is an offsetting payable to the Canadian tax authority, which is not an intercompany balance.
6. Project Triangle Schedule of Banker Fees.xlsx – This provides the detail behind the fees paid/payable to Houlihan Lokey for the Fairness Opinion, which is included on row 9, column E. This was current through the opinion work completed by HL for the previously-anticipated 5/31/2020 closing so the final amount will likely be more

once the final opinion is issued. I would encourage you to reach out to HL to see if there is a more current estimate.

7. LTIA Estimated Tax Payments.xlsx – This provides the detail behind the LTIA payments and the applicable payroll taxes that will be incurred by GBIG, LLC in making those payments. The amount included in row 11, column C is to be paid directly to GBIG, LLC for payment to the recipients.
8. GBIG 53 Wire Instructions.pdf – The GBIG, LLC wiring instructions are included for purposes of sending the amount related to the GBIG LTIA's.

I'm available for a call at any time if needed.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, June 25, 2020 at 9:01 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

I am prepared to sign the CFO certificates with respect to the Estimated Closing Statement so please send it as soon as you have it prepared. Again, please let me know what you need from me.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, June 25, 2020 at 5:09 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

Please let me know what you need from me to complete the Estimated Closing Statement.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Tuesday, May 26, 2020 at 10:38 AM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached the final draft of the Estimated Closing Statement that GBIG Holdings needs to deliver to Ares today for closing on Friday. This reflects the final proforma financial statements for Pavonia and GBIG as of closing. I have also included the wire information for GBIG, LLC, but someone at Global Growth needs to add the wire instructions for GBIG Holdings, Inc.

Please let me know if you have any questions.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Wednesday, May 20, 2020 at 9:28 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou Hensley <lou.hensley@globalbankers.com>
Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I am providing an updated Estimated Closing Statement with the following changes:

1. The Banker Fees have been included, which reflect the amounts paid/payable to Houlihan Lokey for producing the fairness opinion, which is an obligation of the Seller in the SPA
2. The Estimated Expense Overrun has been updated to reflect a revised estimate of accruals through 5/31
3. The amount of the LTAs has been updated to include estimated payroll taxes that would be incurred by GBIG, LLC by virtue of processing the payments (this amount is less than would be incurred by GBIG Holdings if it were to process the payments since GBIG, LLC has maxed-out on certain payroll taxes this year)

I am sending the same document to Ares for their review. Please let me know if you have any questions.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, May 14, 2020 at 2:46 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou

Hensley <lou.hensley@globalbankers.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached an updated Estimated Closing Statement. I have created a revised version of the closing statement to incorporate the bifurcation of the payment between the amount paid directly to GBIG, LLC for the LTIA's and the remainder to GBIG Holdings, Inc. The original version is there as well for your reference. The numbers in here should be fairly close to final for purposes of closing at the end of this month, with the exception of Bankers Fees as I think that still needs to be discussed with Ares how that will be treated.

Let me know if you have questions or would like to discuss.

Thanks

Brian

Brian Stewart – 804.625.5427

From: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>

Date: Wednesday, May 13, 2020 at 4:39 PM

To: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Brian Stewart <Brian.Stewart@globalbankers.com>

Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>

Subject: Project Triangle - Estimated Closing Statement

Tamre and Brian:

We are working through the Closing Items. Has the Estimated Closing Statement been updated, and if so, please forward. Thank you.

Joseph W. Colaianne

CLARK HILL PLC

212 E. Cesar Chavez Avenue | Lansing, 48906
517.318.3029 (Direct) | 517.318.3065 (Fax) | 248.431.0769 (Cell)
JColaianne@ClarkHill.com | www.clarkhill.com

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EXHIBIT D

Subject: FW: Project Triangle Estimated Closing Statement

BDS.EmailID: 502509e54356476ebb2505704003a7e9

From: Luce, David <david.luce@us.dlapiper.com>

Sent: Wednesday, July 1, 2020 7:23 AM

To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; cherwig@globalgrowth.com; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>; Ryan Myrick <rmyrick@aresmgmt.com>; David Reilly <dreilly@aresmgmt.com>

Cc: Lou Hensley <lou.hensley@globalbankers.com>; Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; James Gerber <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Kerr, Christopher (AG) <KerrC2@michigan.gov>

Subject: RE: Project Triangle Estimated Closing Statement

A brief correction – in the third to last line, “Seller expressly reserves” should read “Buyer expressly reserves”.

David Luce

Partner

T +1 212.335.4735

F +1 917.778.8877

M +1 646.468.9693

E david.luce@dlapiper.com

From: Luce, David

Sent: Wednesday, July 01, 2020 7:53 AM

To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; cherwig@globalgrowth.com; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>; Ryan Myrick <rmyrick@aresmgmt.com>; David Reilly <dreilly@aresmgmt.com>

Cc: Lou Hensley <lou.hensley@globalbankers.com>; Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; James Gerber <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Kerr, Christopher (AG) <KerrC2@michigan.gov>

Subject: RE: Project Triangle Estimated Closing Statement

Dear Mr. Colaianne:

I write with reference to your email below, and other recent emails from your firm.

First, nowhere in the SPA does it say that the Expense Overruns may not exceed either party’s expectation. There is no cap on how much the Expense Overruns may reduce the purchase price in the SPA. Your client is a sophisticated commercial party and agreed to the Expense Overruns while represented by competent counsel.

Second, please refer to Exhibit J to the SPA (attached), which states “Prior to the Closing Date, Seller shall take action to terminate or cause to be terminated, effective immediately following Closing, the amended LTIA’s. Seller

shall make all payments due under the amended LTIA's immediately upon Closing.” GBIG LLC, as the employer of management, unlike GBIG Holdings, can properly withhold employment taxes in paying out the long term incentive agreements to which GBIG Holdings is a party. Does Seller not intend to make the required LTIA payments at Closing?

Third, you have repeatedly said that Seller needs the books and records of the Acquired Companies (including the Intralinks pre-SPA signing due diligence materials) to confirm Seller's representations and warranties in the SPA – made at closing. When asked whether Seller really intends to use the books and records to solicit sales or loans of or against the stock of PLICMI, you have repeatedly refused to answer.

Seller does not need the books and records to verify any representations and warranties. Under Article V of the SPA: “Subject to and as qualified by the matters set forth in the Seller Disclosure Schedule pursuant to Section 14.10, Seller hereby represents and warrants to Buyer as follows as of the date hereof and as of the Closing Date...” Section 14.10 (and the rest of the SPA) does not permit Seller to update the Seller Disclosure Schedule after the signing date. Seller could have bargained for the right to update the Seller Disclosure Schedule after the signing date, but it did not.

Access to the books and records cannot change the contractual allocation of risks accomplished by the representations and warranties, to which Seller agreed at Signing. Seller agreed in the SPA to consent to rehabilitation and place the Acquired Companies under the control of the Rehabilitator. Seller did not condition closing on its ability to review the books and records, nor did it bargain for the right to re-negotiate its representations and warranties at Closing.

Last, Seller is required to deliver Buyer an officer's certificate of Seller as to the accuracy of the representations and warranties both at the time of signing and at Closing. Accordingly, while reserving all rights under the SPA, including any right to bring a claim for breach of representations and warranties, Buyer will, at Closing, accept two officer's certificates at Closing in lieu of a single Seller's officer certificate.

One certificate from an officer of the Acquired Companies, as to those representations that primarily relate to the Acquired Companies, at Closing (Sections 5.03-5.19, 5.22, 5.24 and 5.26), and another certificate from an officer of the Seller, as to all the representations at signing, and as to all the representations that do not primarily relate to the Acquired Companies at Closing, in satisfaction of the closing condition in Section 11.02(a)(iv), without any effect on any other provision of the SPA. These certificates will follow under separate cover.

Without limiting the foregoing, Seller expressly reserves the right to bring a claim for a breach of any representation at Closing under the SPA, including those that relate primarily to the Acquired Companies, in accordance with the contract the parties negotiated and agreed. This email is subject to a full reservation of rights, under the SPA, all other contracts and instruments, and applicable law.

Very truly yours,

David Luce

Partner

T +1 212.335.4735

F +1 917.778.8877

M +1 646.468.9693

E david.luce@dlapiper.com

From: Colaianne, Joseph W. <jcolaianne@clarkhill.com>

Sent: Tuesday, June 30, 2020 12:09 PM

To: Brian Stewart <Brian.Stewart@globalbankers.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; cherwig@globalgrowth.com; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>; Ryan Myrick

<rmyrick@aresmgmt.com>; Luce, David <david.luce@us.dlapiper.com>; David Reilly <dreilly@aresmgmt.com>
Cc: Lou Hensley <lou.hensley@globalbankers.com>; Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; James Gerber <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Kerr, Christopher (AG) <KerrC2@michigan.gov>
Subject: RE: Project Triangle Estimated Closing Statement
Importance: High

[EXTERNAL]

Dear Messrs. Kerr and Long:

In responding to Brian Stewart's e-mail below, we object to delivery of the Estimated Closing Statement at this time. First, as indicated last evening in an email addressed to Mr. Kerr, as per the Judge's Order from June 29th, the timing of the Closing was extended until July 31, which means that the estimated Closing Statement as per the SPA is not due until July 28, 2020.

Secondly, Seller does not concur in the delivery of the Estimated Closing Statement by Pavonia on terms that are not acceptable to Seller. The Seller objects to the Estimated Closing Statement as presented dated June 26, 2020 by Brian Stewart, for the reason that the expense overruns far exceed the parties expectations. Moreover, Seller has not agreed to the payment of the LTAs at Closing. This would require an amendment to the SPA, which the Seller is not, at this time, agreeable to.

To avoid any doubt, Seller does not agree to delegate Seller's contractual duty to deliver the Estimated Closing Statement by the CFO of Pavonia or the Rehabiliator. (see Section 2.03(a) of SPA). Seller reserves all rights under the Stock Purchase Agreement and all Ancillary Agreements.

Joseph W. Colaianne

CLARK HILL PLC
517.318.3029 (Direct) | 517.318.3065 (Fax) | 248.431.0769 (Cell)

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Sent: Tuesday, June 30, 2020 10:19 AM
To: Larsen, Zachary C. <zlarsen@clarkhill.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Schwab, Stephen W. <stephen.schwab@dlapiper.com>; cherwig@globalgrowth.com; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@dlapiper.com>; Ryan Myrick <rmyrick@aresmgmt.com>; Luce, David <david.luce@dlapiper.com>; David Reilly <dreilly@aresmgmt.com>
Cc: Lou Hensley <lou.hensley@globalbankers.com>; Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; James Gerber <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Kerr, Christopher (AG) <KerrC2@michigan.gov>
Subject: Project Triangle Estimated Closing Statement

[External Message]

Buyer & Seller,

As instructed by the Rehabiliator, I am sending the Estimated Closing Statement for closing today along with the CFO certifications with respect to the preparation of the Estimated Closing Statement.

If Buyer or Seller have any objections to the Estimated Closing Statement they must communicate those objections in writing to the Rehabiliator via Mr. Kerr and Mr. Long.

Thanks
Brian



Brian Stewart Chief Financial Officer
Global Bankers Insurance Group
a: 2327 Englert Dr. Durham, NC 27713
p: + 1.919.864.2429 m: +1.804.625.5427
www.globalbankers.com

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The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

EXHIBIT J
Employment Actions

ACTIONS TO BE TAKEN PRIOR TO CLOSING

1. Prior to the Closing Date, Seller shall assign, or shall cause to be assigned, the following agreements from GBIG, LLC to Seller or one of its Affiliates that is not being sold in connection with the Transactions:
 - a. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Alistair Bell.
 - b. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Alexandre Baudon.
 - c. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Ana Aroche.
 - d. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Tamara Cain.
 - e. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Jonathan Darden.
 - f. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Juan Delgado Ladru.
 - g. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Christopher Mattera.
 - h. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Vicki McClure.
 - i. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Alejandro Moreno.
 - j. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Chris Murphy.
 - k. Employment Agreement, by and between Global Bankers Insurance Group, LLC and Carlos Nieto.
 - l. Mutual Separation and Release Agreement, dated as of October 26, 2018, by and between Southland National Holdings, Inc., Global Bankers Insurance Group, LLC, GB Capital LLC, GBIG Capital LLC, GBIG Holdings, Inc., and Eli Global LLC on the one hand, and George Luecke.

- m. Long Term Incentive Agreement, dated as of February 20, 2018, by and between Global Bankers Insurance Group, LLC and Dean Fisher.
 - n. Amended and Restated Long Term Incentive Agreement, dated as of January 8, 2018, by and between Global Bankers Insurance Group, LLC and Lou Hensley.
2. Prior to the Closing Date, Seller shall assign, or shall cause to be assigned, the following agreements to GBIG, LLC:
- a. Offer Letter, dated as of August 17, 2016, by and between Eli Global, LLC and Paul Brown.
 - b. Offer Letter, dated as of June 5, 2018, by and between Eli Global, LLC and Liam Quinn.
 - c. Offer Letter, by and between Eli Global, LLC and Matt Weeks.
 - d. Employment Agreement, by and between Eli Global, LLC and Abdoulaye Bah.
 - e. Employment Agreement, dated as of August 17, 2016, by and between Eli Global LLC and Paul Brown.
 - f. Employment Agreement, by and between Eli Global, LLC and Dean Fisher.
 - g. Employment Agreement, by and between Eli Global, LLC and Yolanda Liu.
 - h. Employment Agreement, by and between Eli Global, LLC and Becky Reisinger.
 - i. Employment Agreement, by and between Eli Global, LLC and Dwan Tabor.
 - j. Employment Agreement, by and between Eli Global, LLC and Lyle Tilley.
 - k. Employment Agreement, by and between Eli Global, LLC and Matt Weeks.
3. Prior to the Closing Date, Paul Brown will execute the Acknowledgement by and between GBIG Holdings, Inc. and Paul Brown (the "Acknowledgment"). Seller shall provide Buyer with reasonable opportunity to review and comment on the Acknowledgement and shall consider Buyer's comments in good faith.
4. Prior to the Closing Date, Seller shall amend, or shall cause to be amended, the following long term incentive agreements (together, the "LTIAs"), substantially in the form previously provided to Buyer. Seller shall provide Buyer with a reasonable opportunity to review all changes to such form and comment on such changes and shall consider Buyer's comments in good faith:
- a. Long Term Incentive Agreement by and between Southland National Holdings, Inc. and Sandy Ball, effective as of March 20, 2017.

- b. Long Term Incentive Agreement by and between Southland National Holdings, Inc. and Tamre Edwards, effective as of December 5, 2016.
 - c. Long Term Incentive Agreement by and between Global Bankers Insurance Group LLC and Dean Fisher, effective as of September 26, 2016.
 - d. Amended and Restated Long Term Incentive Agreement, by and between Global Bankers Insurance Group, LLC and Lou Hensley, effective as of January 8, 2018.
 - e. Long Term Incentive Agreement by and between Southland National Holdings, Inc. and Joe Lurie, effective as of September 6, 2016.
 - f. Long Term Incentive Agreement by and between Southland National Holdings, Inc. and Brian Stewart, effective as of September 6, 2016.
5. Prior to the Closing Date, Seller shall take action to terminate or cause to be terminated, effective immediately following Closing, the amended LTIA's. Seller shall make all payments due under the amended LTIA's immediately upon Closing.
6. Prior to the Closing Date, in connection with the amendment of the LTIA's described above, Seller shall prepare and deliver to the applicable filers, all statements required under applicable Section 409A of the Code corrective guidance. Seller shall provide Buyer with reasonable opportunity to review and comment on all such statements and shall consider Buyer's comments in good faith.
7. On or after the date GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, the following agreements will, with the Rehabilitator's approval, be voided:
 - a. Offer Letter from Global Bankers Insurance Group to Mike Farley, dated October 25, 2017.
 - b. Employment, Confidentiality, Non-Solicitation and Non-Competition Agreement by and between Global Bankers Insurance Group, LLC and Jeanne Mitchell, effective January 1, 2018.
 - c. Employment, Confidentiality, Non-Solicitation and Non-Competition Agreement by and between Global Bankers Insurance Group, LLC and Richard Zebleckas, effective January 1, 2018.
 - d. Employment, Confidentiality, Non-Solicitation and Non-Competition Agreement by and between Global Bankers Insurance Group, LLC and Kristan Van Der Meer, effective January 2018 (together with Items 7(b) and 7(c), the "Employment Agreements").
 - e. Letter Agreement by and between Global Bankers Insurance Group, LLC and Brian Stewart, dated September 17, 2018, as amended effective June 28, 2019.

- f. Letter Agreement by and between Global Bankers Insurance Group, LLC and Joe Lurie, dated September 17, 2018, as amended effective June 28, 2019.
 - g. Letter Agreement by and between Global Bankers Insurance Group, LLC and Lou Hensley, dated September 17, 2018, as amended effective June 28, 2019.
 - h. Letter Agreement by and between Global Bankers Insurance Group, LLC and Mike Farley, dated September 17, 2018, as amended effective June 28, 2019.
 - i. Letter Agreement by and between Global Bankers Insurance Group, LLC and Paul Brown, dated September 17, 2018, as amended effective June 28, 2019.
 - j. Letter Agreement by and between Global Bankers Insurance Group, LLC and Sandy Ball, dated September 17, 2018, as amended effective June 28, 2019.
 - k. Letter Agreement by and between Global Bankers Insurance Group, LLC and Tamre Edwards, dated September 17, 2018, as amended effective June 28, 2019, (together with Items 7(e) - 7(j), the “Executive Retention Letter Agreements”).
 - l. Global Bankers Insurance Group LLC has entered into retention letter bonus agreements with thirty-seven (37) Company Employees, in the form of letter agreement provided to Buyer (the “Retention Letter Agreements”). The maximum aggregate amount payable under such Retention Letter Agreements, assuming continued employment of each of the 37 Company Employees through the earlier of December 7, 2019 and the Closing Date, is \$1,145,000.
8. With respect to any Executive Retention Letter Agreement that is voided on or after GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, GBIG, LLC will, with the Rehabilitator’s approval, adopt an agreement providing for severance payments and severance benefits to such employee in the same amounts as provided in the applicable voided agreement upon the termination of the employee’s employment by or in the name of the Acquired Companies without Cause (as such term is defined in the Employment Agreement by and between GBIG, LLC and Lou Hensley, executed on June 28, 2019 (the “Hensley Agreement”). In the event that GBIG, LLC is not permitted by the Rehabilitator to adopt, or does not adopt any such new agreement, then the Seller shall adopt such new agreement.
9. With respect to any Executive Retention Letter Agreement that is voided on or after GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, GBIG, LLC will, with the Rehabilitator’s approval, adopt an agreement providing for a retention bonus equal to the amount of the retention bonus under the applicable voided agreement to be paid in March 2020, subject to the employee’s continued employment with the Acquired Companies. Such bonus shall be accelerated and paid on (i) a Change in Control (as defined in the applicable voided Executive Retention Letter Agreement), subject to the employee’s continued employment with the Acquired Companies or (ii) the termination of the employee’s employment (x) by or in the name of the Acquired Companies without Cause (as such term is defined in the Hensley

Agreement) or (y) on a pro-rata basis if due to the employee's death, and otherwise shall be in the form of the Rehabilitator's approved precedent attached hereto as Exhibit M (the "Template").

10. With respect to any Employment Agreement that is voided on or after GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, GBIG, LLC will, with the Rehabilitator's approval, adopt:
 - a. a new arrangement providing for severance payments and benefits to such employee in the same amounts as provided in the applicable voided Employment Agreement upon the termination of the employee's employment by or in the name of the Acquired Companies without Cause (as such term is defined in the applicable voided Employment Agreement), to be paid at Closing; and
 - b. a new retention bonus arrangement for such employee that provides for a retention bonus in an amount equal to \$50,000, to be paid on January 1, 2020, subject to the employee's continued employment with the Acquired Companies, and otherwise shall be in in the form of the Template.
11. With respect to any Retention Letter Agreement that is voided on or after GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, GBIG, LLC will, with the Rehabilitator's approval, adopt a new retention bonus arrangement for such employee that provides for a retention bonus equal to the amount of the retention bonus under the voided Retention Letter Agreement to be paid in December 2019, subject to the employee's continued employment with the Acquired Companies through December 7, 2019. Such bonus shall be accelerated and paid on a Change in Control (as such term is defined in the applicable voided Retention Letter Agreement), subject to the employee's continued employment with the Acquired Companies or (ii) upon the termination of the employee's employment (x) by or in the name of the Acquired Companies without Cause (as such term is defined in the applicable voided Retention Letter Agreement), or (y) on a pro-rata basis if due to the employee's death, and otherwise shall be in the form of the Template.
12. With respect to Item 7(a) that is voided on or after GBIG, LLC is placed into court-supervised rehabilitation pursuant to MCL 500.8112 and 8113, GBIG, LLC will, with the Rehabilitator's approval, adopt a bonus arrangement for Mike Farley providing for an additional \$100,000 bonus to be paid in March 2020, subject to Mr. Farley's continued employment with the Acquired Companies, and otherwise shall be in the form of the Template.

EXHIBIT E

From: Fraser, Alec <alec.fraser@us.dlapiper.com>
Sent: Monday, June 29, 2020 4:27 PM
To: Kerr, Christopher (AG) <KerrC2@michigan.gov>
Cc: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>; Luce, David <david.luce@us.dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

Yes, we have received it.

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>
Sent: Monday, June 29, 2020 5:19 PM
To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Luce, David <david.luce@us.dlapiper.com>
Cc: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@us.dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@us.dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

[EXTERNAL]

Buyer's Counsel:

The Rehabilitator has obtained confirmation from GBIG, LLC staff that the data room was shut down in September 2019 and copies of the data room were sent to Buyer (Ryan Myrick) at that time. Please confirm that the information provided through the data room fully satisfied Section 7.12 of the SPA.

Thank you.

Christopher Kerr
Assistant Attorney General and
Counsel for the Rehabilitator

From: Kerr, Christopher (AG)
Sent: Monday, June 29, 2020 5:03 PM
To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>; King, Ronald A. <rking@clarkhill.com>
Cc: Schwab, Stephen W. <stephen.schwab@dlapiper.com>; 'david.luce@dlapiper.com' <david.luce@dlapiper.com>; Brian Stewart <Brian.Stewart@globalbankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

Seller's Counsel:

During today's call, Seller represented that it could not yet close because it is awaiting turnover of the entirety of the Pavonia Entities' books and records. As indicated below and during today's call, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore will handle the turnover of the Pavonia Entities' books and records to the Buyer at closing. In addition, Buyer has agreed that the Management Certificates attesting to the Pavonia Entities' solvency can come from the CFO of the Pavonia Entities, not the Seller. For these reasons, Seller has not put forward any reasonable justification for acquiring the entirety of the Pavonia Entities' books and records, nor has it reasonably limited its request to specified books and records that are truly needed to fulfill its perceived obligations under the SPA. Moreover, although asked to "confirm that the materials have been requested solely for purposes related to the SPA and closing," no such confirmation has been forthcoming from Seller.

Under these circumstances, the Rehabilitator declines Seller's request for the entirety of the books and records of the Pavonia Entities. They are not needed to close the transaction, which the Rehabilitator expects to occur tomorrow, June 30, 2020.

Thank you.

Christopher Kerr
Assistant Attorney General and
Counsel for the Rehabilitator

From: Luce, David <david.luce@dlapiper.com>
Sent: Saturday, June 27, 2020 3:14 PM
To: Kerr, Christopher (AG) <KerrC2@michigan.gov>; Schwab, Stephen W. <stephen.schwab@dlapiper.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>
Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>; Peter Nordberg (pnordberg@eliglobal.com) <pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>; You, Wenhong <wenhong.you@dlapiper.com>; Fraser, Alec <alec.fraser@dlapiper.com>
Subject: RE: Project Triangle - Estimated Closing Statement

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Chris,

Having spoken to Ares, they would accept a Management Certificate from the CFO of the Acquired Companies, instead of receiving it from the CFO of the Seller.

We appreciate your attention to this matter, and are happy to discuss further.

Kind regards,

David Luce

Partner

T +1 212.335.4735

F +1 917.778.8877

M +1 646.468.9693

E david.luce@dlapiper.com

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>

Sent: Friday, June 26, 2020 4:18 PM

To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Larsen, Zachary C. <ZLarsen@clarkhill.com>

Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>;

Peter Nordberg (<pnordberg@eliglobal.com> <pnordberg@eliglobal.com>); Gregg, Randall (DIFS)

<GreggR2@michigan.gov>; Luce, David <david.luce@us.dlapiper.com>; Poedtke, III, Carl H.

<carl.poedtke@us.dlapiper.com>; Gerber, Jim (DIFS) <gerberj@michigan.gov>; Long, James (AG) <LongJ@michigan.gov>

Subject: RE: Project Triangle - Estimated Closing Statement

[EXTERNAL]

Stephen (sending on behalf of Jim Gerber who is having computer issues):

After reviewing Mr. Larsen's e-mail, the Rehabilitator owns and controls the books and records of the Pavonia Entities under the Rehabilitation Order. The Rehabilitator therefore would be interested in knowing whether it would be acceptable to the Buyer for the Rehabilitator to turn over the books and records of the Company at closing to the Buyer. We have not seen the language of the Management Certificate, but I am willing to verify the books and records are true and accurate for the period the Pavonia Entities were in rehabilitation. If the Certificate extends beyond the period of rehabilitation, we would propose that Brian Stewart verify them as the CFO of GBIG, LLC.

Please let us know your thoughts on these proposals.

Thank you.

James Gerber, CFE

Director of Receiverships

Department of Insurance and Financial Services -State of Michigan

(517)-284-8664

e-mail: gerberj@michigan.gov

From: Schwab, Stephen W. <stephen.schwab@dlapiper.com>

Sent: Friday, June 26, 2020 2:58 PM

To: Larsen, Zachary C. <ZLarsen@clarkhill.com>

Cc: Brian Stewart <Brian.Stewart@globalbankers.com>; Colaianne, Joseph W. <jcolaianne@clarkhill.com>;

cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>;

Kerr, Christopher (AG) <KerrC2@michigan.gov>; Peter Nordberg (<pnordberg@eliglobal.com>)

<pnordberg@eliglobal.com>; Gregg, Randall (DIFS) <GreggR2@michigan.gov>; Luce, David <david.luce@dlapiper.com>; Poedtke, III, Carl H. <carl.poedtke@dlapiper.com>

Subject: RE: Project Triangle - Estimated Closing Statement

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Zach:

A copy of your message below has been forwarded to us. The joint regulator/governmental agency communication requirement in the SPA remains. Kindly cc us on all such communications.

Kindly confirm that the materials have been requested solely for purposes related to the SPA and closing.

Thanks.



Stephen W. Schwab, DLA Piper LLP (US)

stephen.schwab@us.dlapiper.com

Ofc. 312.368.2150 (Tie 810)

Cell 847.366.5490

Visit our [Coronavirus Resource Center](#) & [subscribe to our mailing list](#).

 Please consider the environment before printing this email.

From: Larsen, Zachary C. <zlarsen@clarkhill.com>

Sent: Friday, June 26, 2020 2:27 PM

To: Brian Stewart; Colaianne, Joseph W.

Cc: Tamre Edwards; cherwig@globalgrowth.com; Lou Hensley; King, Ronald A.; Kerr, Christopher (AG); Peter Nordberg; Gregg, Randall (DIFS)

Subject: RE: Project Triangle - Estimated Closing Statement

Brian,

Thank you for providing these documents. Following up on Ron and Randall's comments on this morning's call regarding cooperation for what we need for closing, I wanted to request that GBIG Holdings be provided with the books and records of Pavonia—including those documents provided in the Ares data room as part of this deal.

As you know, Article V of the SPA requires Seller to verify "as of the date of closing" the representations contained in that article, including those relating to the financial condition and assets of the company. Additionally, as part of closing Seller is obligated to deliver the books and records of the company and a Management Certificate signed by the current Chief Financial Officer of Seller. Section 3.04(h) and (j). To effectuate those requirements, we ask that you provide this information.

Sincerely,

Zach Larsen

CLARK HILL PLC

212 East E. Cesar E. Chavez Ave. | Lansing, MI 48906

517.318.3053 (Direct) | 517.318.3066 (Fax) | 734.883.2137 (Cell)

ZLarsen@ClarkHill.com | www.clarkhill.com

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Sent: Friday, June 26, 2020 1:33 PM
To: Colaianne, Joseph W. <jcolaianne@clarkhill.com>; Larsen, Zachary C. <zlarsen@clarkhill.com>
Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>; cherwig@globalgrowth.com; Lou Hensley <lou.hensley@globalbankers.com>; King, Ronald A. <rking@clarkhill.com>
Subject: Re: Project Triangle - Estimated Closing Statement
Importance: High

[External Message]

Joe/Zach,

I am proactively sending you the documents listed below to assist you in the preparation of the Estimated Closing Statement. I believe the only remaining item you require is the closing date loan balance, which I understand Ares/DLA provided to you yesterday. I have included any comments relevant to your preparation, but let me know if you have any questions or need additional assistance in the preparation of the Statement. Upon your delivery of the Estimated Closing Statement using the figures contained in these files I will sign the CFO certifications.

1. 2019.12.31 GBIG Financial Stmts.pdf
2. 2019.12.31 PLICMI Financial Statements.pdf – This provides you with the 2019 General Expenses needed for calculating the 2019 portion of the Estimated Expense Overrun. This can be found on the Statement of Operations, Line 23, column 1
3. Project Triangle-Proforma Financials-GBIG_2020.06.25_CH.xlsx
4. Project Triangle-Proforma Financials-PLICMI_2020.06.25_CH.xlsx – This provides you with the Proforma 6/30/2020 YTD General Expenses needed for calculating the 2020 portion of the Estimated Expense Overrun. This can be found under the Summary of Operations, Line 23 (excel row 718), column M
5. 2019 GBIG Tax Share Analysis (2.4.20).xlsx – This provides you with the current tax receivable for PLICMI from GBIG Holdings, which can be found on row 71, column F. This amount is included in the PLICMI June Proforma Financials under Assets, Line 18.1 - Current federal and foreign income tax recoverable and interest thereon. The balance in Line 18.1 is less than the receivable from GBIG Holdings because there is an offsetting payable to the Canadian tax authority, which is not an intercompany balance.
6. Project Triangle Schedule of Banker Fees.xlsx – This provides the detail behind the fees paid/payable to Houlihan Lokey for the Fairness Opinion, which is included on row 9, column E. This was current through the opinion work completed by HL for the previously-anticipated 5/31/2020 closing so the final amount will likely be more once the final opinion is issued. I would encourage you to reach out to HL to see if there is a more current estimate.
7. LTIA Estimated Tax Payments.xlsx – This provides the detail behind the LTIA payments and the applicable payroll taxes that will be incurred by GBIG, LLC in making those payments. The amount included in row 11, column C is to be paid directly to GBIG, LLC for payment to the recipients.
8. GBIG 53 Wire Instructions.pdf – The GBIG, LLC wiring instructions are included for purposes of sending the amount related to the GBIG LTIA's.

I'm available for a call at any time if needed.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>
Date: Thursday, June 25, 2020 at 9:01 PM
To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>

Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

I am prepared to sign the CFO certificates with respect to the Estimated Closing Statement so please send it as soon as you have it prepared. Again, please let me know what you need from me.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>

Date: Thursday, June 25, 2020 at 5:09 PM

To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>, "Larsen, Zachary C." <zlarsen@clarkhill.com>

Cc: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe/Zach,

Please let me know what you need from me to complete the Estimated Closing Statement.

Thanks
Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>

Date: Tuesday, May 26, 2020 at 10:38 AM

To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>

Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, "cherwig@globalgrowth.com" <cherwig@globalgrowth.com>, Lou Hensley <lou.hensley@globalbankers.com>, "King, Ronald A." <rking@clarkhill.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached the final draft of the Estimated Closing Statement that GBIG Holdings needs to deliver to Ares today for closing on Friday. This reflects the final proforma financial statements for Pavonia and GBIG as of closing. I have also included the wire information for GBIG, LLC, but someone at Global Growth needs to add the wire instructions for GBIG Holdings, Inc.

Please let me know if you have any questions.

Thanks

Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>

Date: Wednesday, May 20, 2020 at 9:28 PM

To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>

Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou Hensley <lou.hensley@globalbankers.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I am providing an updated Estimated Closing Statement with the following changes:

1. The Banker Fees have been included, which reflect the amounts paid/payable to Houlihan Lokey for producing the fairness opinion, which is an obligation of the Seller in the SPA
2. The Estimated Expense Overrun has been updated to reflect a revised estimate of accruals through 5/31
3. The amount of the LTIA's has been updated to include estimated payroll taxes that would be incurred by GBIG, LLC by virtue of processing the payments (this amount is less than would be incurred by GBIG Holdings if it were to process the payments since GBIG, LLC has maxed-out on certain payroll taxes this year)

I am sending the same document to Ares for their review. Please let me know if you have any questions.

Thanks

Brian

Brian Stewart – 804.625.5427

From: Brian Stewart <Brian.Stewart@globalbankers.com>

Date: Thursday, May 14, 2020 at 2:46 PM

To: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>

Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>, Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Lou Hensley <lou.hensley@globalbankers.com>

Subject: Re: Project Triangle - Estimated Closing Statement

Joe,

I have attached an updated Estimated Closing Statement. I have created a revised version of the closing statement to incorporate the bifurcation of the payment between the amount paid directly to GBIG, LLC for the LTIA's and the remainder to GBIG Holdings, Inc. The original version is there as well for your reference. The numbers in here should be fairly close to final for purposes of closing at the end of this month, with the exception of Bankers Fees as I think that still needs to be discussed with Ares how that will be treated.

Let me know if you have questions or would like to discuss.

Thanks

Brian

Brian Stewart – 804.625.5427

From: "Colaianne, Joseph W." <jcolaianne@clarkhill.com>
Date: Wednesday, May 13, 2020 at 4:39 PM
To: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>, Brian Stewart <Brian.Stewart@globalbankers.com>
Cc: "Larsen, Zachary C." <zlarsen@clarkhill.com>
Subject: Project Triangle - Estimated Closing Statement

Tamre and Brian:

We are working through the Closing Items. Has the Estimated Closing Statement been updated, and if so, please forward. Thank you.

Joseph W. Colaianne

CLARK HILL PLC

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EXHIBIT F

From: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>
Sent: Sunday, June 28, 2020 10:23 PM
To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Luce, David <david.luce@us.dlapiper.com>
Cc: Lou Hensley <lou.hensley@globalbankers.com>
Subject: Fwd: VDR: Project Triangle

[EXTERNAL]

FYI

Get [Outlook for iOS](#)

From: Tamre Edwards <Tamre.Edwards@GlobalBankers.com>
Sent: Sunday, June 28, 2020 10:13 PM
To: James Gerber; Long, James (AG); Kerr, Christopher (AG); Gregg, Randall (DIFS)
Cc: Lou Hensley; Brian Stewart; Paul Brown
Subject: Fwd: VDR: Project Triangle

See below a request Sidley Austin forwarded to us from Greg Lindberg for access to all of the due diligence items for the Pavonia/GBIG sale. I wanted you to be aware that Mr. Lindberg and his counsel tried to circumvent the rehabilitation process by getting this information from his former outside counsel on the deal. As noted below, Sidley does not have access to this information. How would you like us to respond/address?

Thanks!
Tamre

From: "Todd, Amanda M." <atodd@sidley.com>
Date: June 28, 2020 at 7:42:54 PM EDT
To: Paul Brown <paul.brown@GlobalBankers.com>, Reid Shalvoy <Reid.Shalvoy@GlobalBankers.com>
Cc: "Kelly, Jonathan" <jjkelly@sidley.com>, "Todd, Amanda M." <atodd@sidley.com>
Subject: VDR: Project Triangle

Hi Paul and Reid-

I hope you are both doing well and staying healthy and safe during these crazy times. Greg Lindberg reached out to us to ask for access to the Intralinks electronic data room for Project Triangle. As Jon and I are no longer involved in the deal, we cannot access the site. Can you please arrange to get Greg and Clark Hill (jcolaianne@clarkhill.com) access today? He would like it as soon as possible.

Thanks,

AMANDA M. TODD

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Chicago, IL 60603

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atodd@sidley.com

www.sidley.com

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EXHIBIT G

From: Kerr, Christopher (AG) <KerrC2@michigan.gov>

Sent: Friday, June 26, 2020 12:58 PM

To: Schwab, Stephen W.; King, Ronald A.; Larsen, Zachary C.; Lou Hensley; Tamre Edwards

Cc: Gregg, Randall (DIFS); James Gerber; Long, James (AG)

Subject: Rehabilitator's Notice re: Closing of Transaction

Notice to Seller, Buyer, and Pavonia Entities:

This notifies the parties that based on the Court's ruling yesterday granting final approval to the Plan of Rehabilitation ("Plan"), the Rehabilitator fully expects the parties to close on the transaction pursuant to the Plan-incorporated Stock Purchase Agreement by June 30, 2020. Any failure to close by this deadline without good cause or mutual agreement of the parties approved by the Rehabilitator will be deemed by the Rehabilitator to constitute obstruction and/or interference with the Court-approved Plan and the conduct of this rehabilitation proceeding, in violation of MCL 500.8105(1)(c), MCL 500.8106(2), and paragraphs 18 and 19 of the Rehabilitation Order. The Rehabilitator will seek all available remedies against any party engaging in such obstruction and/or interference, including but not limited to the following remedies under MCL 500.8106(4) and paragraph 19 of the Rehabilitation Order:

- (a) A sentence requiring the payment of a fine not exceeding \$10,000.00, or imprisonment for a term of not more than one year, or both; and
- (b) After a hearing, the imposition by the DIFS Director of a civil penalty not to exceed \$10,000.00, or the revocation or suspension of any insurance licenses issued by the Director, or both.

The Rehabilitator appreciates the parties' anticipated cooperation in consummating a timely closing of the transaction. Thank you.

Christopher Kerr
Assistant Attorney General and
Legal counsel for the Rehabilitator