

**CAUSE NO. CC-17-06253-C**

**UNITED DEVELOPMENT  
FUNDING, L.P., et al.**

**Plaintiffs,**

**v.**

**J. KYLE BASS; et al.**

**Defendants.**

§ IN THE COUNTY COURT  
§  
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§  
§ AT LAW NO. 3  
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§  
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§  
§ DALLAS COUNTY, TEXAS  
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§

**DECLARATION OF ELLEN A. CIRANGLE IN RESPONSE TO  
DEFENDANTS’ MOTION TO CONTINUE TRIAL DATE AND FOR  
ENTRY OF A NEW SCHEDULING ORDER**

My name is Ellen A. Cirangle, my date of birth is July 7, 1963, and my address is 18 Miguel Street, San Francisco, California. I declare under penalty of perjury that the foregoing is true and correct.

1. I am an attorney for plaintiffs United Development Funding, L.P., et al. (collectively, “UDF”), and I am submitting this declaration in response to Defendants’ Motion to Continue Trial Date and for Entry of a New Scheduling Order.

2. In the 16 months since this case was remanded to the trial Court, Hayman has produced 21,311 documents, totaling 79,321 pages. Hayman insisted throughout this period that it could not review and produce its documents any faster. In contrast, during this same time period, UDF reviewed and produced 91,371 documents totaling 939,291 pages, with an additional approximately 111,372 documents estimated to be approximately 900,000 pages being produced in mid-September. Thus by mid-September, UDF will have produced approximately 202,743 documents, totaling approximately 1,839,291 pages. Thus, by page count volume, UDF has produced more than 23 times what Hayman has produced during the same time period.

3. UDF has produced over 17,000 emails, with another approximately 35,000 emails to be produced in mid-September. UDF has also worked to review and produce tens of thousands of more emails in the possession of its accountants. In contrast, Hayman has produced 9,329 emails.

4. The history of negotiations between UDF and Hayman regarding the scope of UDF's document production in this case were previously detailed at length in my June 25, 2021 Declaration in Support of Plaintiffs' Opposition to Defendants' Second and Third Motions to Compel ("June 25, 2021 Cirangle Dec."), a courtesy copy of which I am providing with this motion in the event the Court wishes to have more detail regarding such history. In sum, UDF has dealt with an ever-changing and non-committal document negotiation process with Hayman. And Hayman has failed to provide any good faith search terms for any remaining emails it seeks. Meanwhile, UDF has spent well over 12,000 hours and significant amounts of money diligently producing documents in this case.

5. As to the SEC production Hayman complains of, UDF objected to such production on July 27, 2020. Hayman did not set its motion to compel production of the SEC documents until June 30, 2021.

6. Regarding the Whitley Penn production Hayman complains of, given the volume of emails between UDF and its accountants, last year Hayman agreed to provide search terms to narrow its requests to relevant information. UDF repeatedly asked Hayman to provide such search terms, and Hayman repeatedly failed to do so. Eventually, given Hayman's abandonment of its prior promises, and its refusal to make any meaningful effort to move this production forward, UDF told Hayman it would undertake the extremely burdensome task of reviewing and producing all of the Whitley Penn emails. UDF told Hayman this would be burdensome and would take months to do. Further details regarding the Whitley Penn production are contained in paragraphs 12-24 of the June 25, 2021 Cirangle Dec.

7. On May 27, 2021, the Court issued its Order Granting Plaintiffs' Motion to Compel Defendants' Compliance with Requests for Production Numbers 1 and 5 ("Order Compelling Defendants to Produce"). A true and correct copy of such Order is attached hereto as Exhibit A.

8. As detailed in Mr. Sommer's July 15, 2021 and August 13, 2021 letters to Mr. Tillotson (true and correct copies are attached hereto as Exhibit B), Hayman has failed to comply with the Court's Order Compelling Defendants to Produce, and UDF is still trying to get Hayman to comply. Hayman has also failed

to produce large groups of documents, including its financials, redemptions and many other important documents. Hayman has failed to meet its promises to UDF, such as Hayman's promise to pare down its Sixth Amended Privilege Log by August 4.

9. Hayman has obstructed the deposition process in this case. Despite noticing depositions of UDF and third-party witnesses based upon the then-current productions, Hayman subsequently cancelled all of the depositions. While Hayman tries to claim that it could not take depositions without the SEC production, at the time Hayman noticed the depositions Hayman had not even filed a motion to compel to obtain the SEC production nor did it have any expectation of receiving any such production prior to the depositions. Hayman has also sought to block or delay depositions to be taken by UDF.

10. UDF has been proceeding with its depositions in this case, despite the deficiencies in Hayman's document productions, including Hayman's failure to comply with the Court's Order Compelling Defendants to Produce. However, on August 24, 2021, Hayman informed UDF that it refused to cooperate in any depositions going forward and would file a motion to block the taking of depositions. A true and correct copy of such correspondence is attached hereto as Exhibit C.

11. It is my belief that unless and until the Court imposes a deadline on Hayman to complete its discovery Hayman's pattern of using document productions to obstruct and delay the deposition process, and therefore the trial date, will continue.

Executed in the City and County of San Francisco, State of California, on the 27th day of August, 2021.



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Ellen A. Cirangle

# **EXHIBIT A**



Response, Plaintiffs' Reply and Supplement, and all declarations and written submissions made by the parties, and having heard and considered the arguments of counsel, the Court is of the opinion that the Motion should be granted and hereby GRANTS the Motion. It is ORDERED that:

1. Defendants' objections to Plaintiffs' Requests for Production Numbers 1 and 5 (the "Requests") are overruled;

2. Defendants are ordered to comply in full with and produce all documents responsive to the Requests within 45 days of the date of this Order (and, to the extent any documents are withheld as privileged, provide a privilege log for any such documents within 60 days of the date of this Order); and

3. As part of their compliance with the Requests, Defendants shall review each and every email sent or received by Kyle Bass, Parker Lewis, Andy Jent and Chris Kirkpatrick between December 1, 2015, and February 29, 2016, and produce all of their emails that are responsive to the Requests (this review shall be in addition to, not in lieu of, Defendants' general obligation to diligently search for and produce documents responsive to the Requests).

Signed this the 27 day of May, 2021.

  
HON. TED M. AKIN  
JUDGE PRESIDING

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Gloria Beasley on behalf of Jonathan Sommer  
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Envelope ID: 53919187  
Status as of 5/28/2021 11:58 AM CST

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Stewart H.Thomas		sthomas@hallettperrin.com	5/28/2021 11:44:51 AM	SENT
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Jason HFriedman
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Associated Case Party: HAYMAN CAPITAL MANAGEMENT, L.P.

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Courtney Perez
Linda Richichi Stahl
Cathryn Hopkins
Ellen Cirangle
Kyle Withers
Susie Wade
Jonathan Sommer
Brooke Floyd

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Gloria Beasley on behalf of Jonathan Sommer  
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# **EXHIBIT B**



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July 15, 2021

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Jeffrey M. Tillotson  
Jonathan R. Patton  
J. Austen Irrobali  
Benjamin L. Nabors  
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1807 Ross Avenue, Suite 325  
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Re: The Court's May 27, 2021 Order and Defendants' Sixth Amended Combined Privilege Log in *United Development Funding, LP et al v. J. Kyle Bass, et al.*, Cause No. CC-17-06253-C; County Court at Law No. 3, Dallas County, Texas

Dear Jeff:

I am writing in regard to Defendants' failure to comply with the Court's May 27, 2021 order and their Sixth Amended Combined Privilege Log, in advance of tomorrow's meet and confer.

The Court's May 27, 2021 order requires Defendants to comply in full, without objection, to Plaintiffs' Requests for Production Numbers 1 and 5:

1. All documents related to UDF.
5. All communications with any person related to UDF, the First Anonymous Post, the Second Anonymous Post, the Third Anonymous Post, the Website, the Lawsuit, the Petition or Centurion.

Defendants have not complied with these requests as ordered. Defendants' failure to comply is extensive and includes, but is not limited to, the following categories of documents that Defendants have not produced:

1. All documents related to the SEC investigation of Defendants related to UDF. Defendants have been subject to an SEC investigation related to UDF. Although Defendants represented to Judge Akin yesterday that they had produced the documents related to this SEC investigation of Defendants, they have not.
2. All documents related to Defendants' filing of an SEC whistleblower application related to UDF. Defendants have not produced these documents, which would include, but not be limited to, the filing of the purported whistleblower application and the SEC's denial of the whistleblower application.
3. All documents related to Defendants' filing of an IRS whistleblower application related to UDF. Defendants have not produced these documents, which would include, but not be limited to, the filing of the purported whistleblower application and the SEC's denial of the whistleblower application.
4. All communications between defendant Kyle Bass (and others at Hayman) with Fiamma and Frank Zaccanelli related to UDF or Centurion. Defendants have not produced these communications.
5. All communications between defendant Kyle Bass (and others at Hayman) with Megatel and the Ipours related to UDF or Centurion. Defendants have not produced these communications.
6. All communications between defendant Kyle Bass (and others at Hayman) with James Dondero or other persons at NexPoint or Highland Capital related to UDF or Centurion. Defendants have not produced these communications.
7. All communications related to UDF that Defendants did not search for and produce outside the time period of December 1, 2015 to February 1, 2016. While Defendants have represented that they reviewed four email accounts between December 1, 2015 and February 29, 2016, that was only "part of their compliance with the Requests," not the entirety of the Court's order. That review is not a substitute for searching for and producing all documents responsive to Requests for Production Numbers 1 and 5. Moreover, in producing new documents in this three-month time period pursuant to the Court's order, Defendants have revealed that they did not previously undertake a proper search—including searching for documents with the words "UDF," "United Development Funding" or "Centurion"—because much of Defendants' new production under the Court's

order includes those very terms.<sup>1</sup> For example, in producing documents from a review of this three-month window, Defendants only now produced 1,451 documents that include the term “UDF”, 404 documents that include the term “United Development Funding” and 221 documents that include the term “Centurion”. Among this new production are emails on December 10, 2015 from defendant Bass to various persons concerning Defendants’ posts on UDF that day, which was the day of Defendants launched their anonymous campaign against UDF. Defendants’ limited review of documents between December 1, 2015 and February 29, 2016 does not cure their general failure to search for and produce documents. There have also been many emails produced by third parties that include terms such as “UDF” in communications to defendant Kyle Bass and other Defendants that Defendants did not produce, further showing that Defendants have not searched for and produced all documents related to UDF. We raised this issue with you back on June 29 and received no response.

8. All communications with former employees related to UDF. It appears that Defendants have not included in their production all communications with former employees related to UDF.

Finally, on June 2, 2021 Defendants serve a Sixth Amended Combined Privilege Log that added over 400 new emails to Defendants’ privilege log, even though Defendants informed us in January that their privilege log was essentially complete. Those emails are the same sort of emails that were the subject of Plaintiffs’ motion to compel compliance. Judge Akin granted that motion on March 18, 2021, and found that emails in the following three general categories were not privileged: (1) emails with Defendants’ public relations firm, Edelman, (2) internal emails of Defendants involving Chris Kirkpatrick, and (3) internal emails of Defendants involving no lawyer. Yet these 400+ new emails are just more of the same, i.e., emails with Edelman, emails involving Kirkpatrick and emails involving no lawyer. If Defendants had not sat on these emails and then belatedly claimed privilege, Judge Akin could have reviewed these emails as part of his previous *in camera* review. We have asked multiple times for an explanation as to how these emails belatedly appeared on the privilege log, but have received no explanation. In this context, Plaintiffs request that you stipulate to provide these new emails to Judge Akin for his *in camera* review to determine whether they are privileged.

As part of our meet-and-confer tomorrow, we will be prepared to hear from Defendants what steps they are taking to get in compliance with the Court’s order and whether they will stipulate to have Judge Akin review the emails added to Defendants’ privilege log on June 2 to determine if they are privileged.

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<sup>1</sup> Nor did Defendants’ search terms include “Greenlaw” (Hollis Greenlaw is CEO of UDF) or “Mehrddad” or “Moayedi” (Mehrddad Moayedi is Centurion’s CEO). Accordingly, while Defendants have repeatedly represented to Judge Akin that they used extensive search terms to comply with Plaintiffs’ document requests, it is evident that Defendants did not use even the most basic search terms.

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Page 4

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan E. Sommer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jonathan E. Sommer



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Re: Various Outstanding Issues

Dear Jeff:

I am writing in reply to your letter dated August 4, 2021 as well as your email from yesterday.

**Trial Continuance and Discovery and Expert Cutoffs**

Plaintiffs do not believe a trial continuance is warranted at this time. When we spoke on July 29, you said Defendants were not seeking a trial continuance at that time, but were seeking an extension of discovery and expert deadlines. You have since proposed a continuance of the January 18, 2022 trial date to April 4, 2022.

In lieu of a trial continuance, Plaintiffs are willing to agree to a 30-day extension of the discovery and expert cutoffs. In addition, we would be willing to schedule party depositions after the extended discovery cutoff as reasonably necessary.

If the parties are not in agreement, then a conference with Judge Montgomery would seem to be next logical step. In light of the referral of the “[d]etermination of all disputed issues in this case” to Retired Justice Ted Akin as Special Master, it would be helpful to both sides to receive some clarification from Judge Montgomery as to how the Order Appointing Special Master applies to pretrial and trial proceedings and to generally discuss the trial setting. We

would like to receive that guidance from Judge Montgomery before taking a final position on the scheduling of expert disclosures, pretrial motions, etc.

In sum, Plaintiffs propose a joint request for a conference with Judge Montgomery to discuss the Order Appointing Special Master and her expectations with respect to the trial setting.

### **Defendants' Sixth Amended Combined Privilege Log**

In response to my request that the additional emails shown on Defendants' Sixth Amended Privilege Log be presented to Judge Akin by stipulation for his in camera review, you requested an opportunity to review them and potentially pare down the log. You asked for an agreement that you be given until Wednesday, August 4 to do so, to which I agreed.

Plaintiffs have not received any revised log, further production of documents determined to be non-privileged, or further communication on the subject. Please provide a revised log and the documents determined to be non-privileged.

### **Defendants' Compliance with the Court's Order on Plaintiffs' Motion to Compel RFPs 1 and 5**

Your letter references doing some specific searches based on search terms set forth in your letter, plus additional general searches based on search terms to be provided by Austen Irrobali. We have not received any such general search terms from Austen, and the search terms set forth in your letter for certain specific searches are unduly narrow.

Plaintiffs request that Defendants undertake a general search, review and production of documents using the following eight search terms: "UDF", "United Development Funding," "Hollis", "Greenlaw", "Centurion", "Mehrdad," "Moayedi," and "Buffington" for the time period identified in the Instructions to Plaintiffs' First Set of Requests for Production. That will be the foundation for locating the documents responsive to Requests for Production Nos. 1 and 5.

In addition to that general search, UDF requests the follow specific searches set forth below:

1. Item #1 (All documents related to the SEC investigation of Defendants related to UDF.) It continues to be the position of Plaintiffs that the Court's order obligates Defendants to produce these documents; however, as Defendants are not agreeing to comply, Plaintiffs are not going to propose search terms for this category at this time.

2. Item #2 (All documents related to Defendants' filing of an SEC whistleblower application related to UDF.) In the meet-and-confer, Defendants agreed to produce the requested documents, including the application, any response from the SEC, and any related Hayman communications to present.

Your letter agrees to produce the application, but omits the SEC's response. The response is needed. As to related communications, the search terms are unduly narrow. "Whistleblower form" is a very narrow search term, as is "Form WB-APP," and "1448907501691," especially when paired with "UDF"—a term that you are obligated to search already. Those terms will not capture communications related to the whistleblower application. Plaintiffs request that Defendants search on "whistleblower" (without tying it to "UDF") and determine how many "hits" exist for that search.

3. Item #3 (All documents related to Defendants' filing of an IRS whistleblower application related to UDF.) In the meet-and-confer, Defendants agreed to produce the requested documents, including the application, any response from the IRS, and any related Hayman communications to present.

Your letter agrees to produce the application, but omits the IRS's response. That response is needed. As to related communications, the search terms are unduly narrow. "REIT qualification tests" is a very narrow search term, as is "211 Supplement," and "IRC §857(b)(6)," especially when paired with "UDF"—a term that you are obligated to search already. Those terms will not capture communications related to the whistleblower application. As with Item #2, Plaintiffs request that Defendants search on "whistleblower" (without tying it to "UDF") and determine how many "hits" exist for that search.

As constructed by Defendants, the search would not capture any additional documents because all documents would already be captured by the word "UDF."

4. Item #4 (All communications between defendant Kyle Bass (and others at Hayman) with Fiamma and Frank Zaccanelli related to UDF or Centurion.) In the meet-and-confer, Defendants agreed to produce the requested communications to present.

Your letter proposed searching emails to "fiammapartners.com", as paired with the terms "UDF" or "Centurion" or "Mehrddad". Given your statement during the meet-and-confer that you believed there were very few responsive emails, there is no reason for such a limitation. Plaintiffs request that Defendants search for (1) all communications to or from "fiammapartners.com", and (2) all communications to or from any email address used by Frank Zaccanelli.

As constructed by Defendants, the search would not capture any additional documents because all documents would already be captured by the words "UDF" or "Centurion" or "Mehrddad."

5. Item #5 (All communications between defendant Kyle Bass (and others at Hayman) with Megatel and the Ipours related to UDF or Centurion.) In the meet-and confer, Defendants agreed to produce the requested communications to present.

Your letter proposed searching emails to "megatelhomes.com", as paired with the terms "UDF" or "Centurion" or "Mehrddad". Given your statement during the meet-and-confer that you

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Page 4

believed there were very few responsive emails, there is no reason for such a limitation. Plaintiffs request that Defendants search for (1) all communications to or from “megatelhomes.com”, and (2) all communications to or from any email address used by the Ipour brothers.

As constructed by Defendants, the search would not capture any additional documents because all documents would already be captured by the words “UDF” or “Centurion” or “Mehrddad.”

6. Item # 6 (All communications between defendant Kyle Bass (and others at Hayman) with James Dondero or other persons at NexPoint or Highland Capital related to UDF or Centurion.) During the meet-and-confer, Defendants agreed to produce the requested communications to present.

Your letter proposed searching emails to “highlandcapital.com” and “nexpoint.com”, as paired with the terms “UDF” or “Centurion” or “Mehrddad”. Again, there is no reason for such a limitation in light of your belief that the number of emails is not significant. Plaintiffs request that Defendants search for (1) all communications to or from “highlandcapital.com” or “nexpoint.com”, and (2) all communications to or from any email address used by James Dondero.

As constructed by Defendants, the search would not capture any additional documents because all documents would already be captured by the words “UDF” or “Centurion” or “Mehrddad.”

7. Item #7 (All communications related to UDF that Defendants did not search for and produce outside the time period of December 1, 2015 to February 1, 2016.) We discussed this issue at some length. Plaintiffs had requested “all documents related to UDF” and “all communications with any person related to UDF ... or Centurion”. Defendants had produced documents and previously stated that their production of documents was complete. After moving to overrule Defendants’ objections to RFPs 1 and 5 and obtaining an order that Defendants comply with the requests in full, the Court also ordered Defendants to do a document-by-document search and review for responsive documents for the period of December 1, 2015 to February 1, 2016. After doing so, Defendants produced a large volume of documents that contained terms such as “UDF”, “United Development Funding,” and/or “Centurion”, including some emails by defendant Bass on the day of the anonymous post (December 10, 2015) concerning that important post on UDF. You acknowledged that this shows that there are documents outside that three-month time period that are responsive to RFPs 1 and 5 that have not been produced. When I asked how such documents would not have been captured by a prior search given that the documents include words such as “UDF”, “United Development Funding” or “Centurion”, you explained that some documents had been deemed nonresponsive or subject to objection and therefore not produced. When I asked whether those documents originally deemed nonresponsive or subject to objection could now be produced in light of the Court’s order on RFPs 1 and 5, you further explained that it would not be possible to simply turn over those documents because they were not collected in any repository and that, instead, new

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searches would have to be performed. You offered to send over proposed search terms on July 29, to which I agreed.

Your letter includes no proposed search terms. Plaintiffs request that Defendants undertake a search, review and production of documents using the following eight search terms: “UDF”, “United Development Funding,” “Hollis”, “Greenlaw”, “Centurion”, “Mehrdad,” “Moayedi,” and “Buffington” for the time period identified in the Instructions to Plaintiffs’ First Set of Requests for Production. That will be the foundation for locating the documents responsive to Requests for Production Nos. 1 and 5.

8. Item #8 (All communications with former employees related to UDF.) During the meet-and-confer, you explained that such documents were not withheld or otherwise intentionally excluded from Defendants’ search and production, but some responsive documents may have been deemed nonresponsive or subject to objection as explained above with respect to Issue # 7 and that, accordingly, the way to ensure their production is via new searches with agreed search terms.

Again, this shows the need to do a new search with appropriate search terms as set forth with respect to Item #7.

### **Order on Defendants’ Second Motion to Compel**

Attached is Plaintiffs’ proposed form of order. It is a revised version of the proposed order that I sent to you on July 16. You sent me comments on that proposed order, to which I replied on July 19. You then sent additional comments in your August 4 letter. This proposed form of order adopts some, but not all, of your proposed changes, for the reasons set forth below.

The language in paragraph 1 has been broadened as requested, except for the language about redactions as discussed below. The language in paragraph 2 has been broadened, but in a way that avoids vagueness. It appears that the parties are in agreement on paragraphs 3-5. As for the time for production, the dates are roughly 10-15 days later based on our progress to date. The work on production is underway; however, Plaintiffs are simultaneously juggling other productions, including a substantial additional production of Whitley Penn documents. Hence, we need some additional time for the SEC production.

The significant point of disagreement appears to be your request to change the Rule 11 agreement on tax documents and personal financial information. It appears that your core concern is that you seek personal information of Centurion’s CEO, Mehrdad Moayedi because you claim it is relevant to assessing the worth of his guaranty to UDF. However, the issue in the case is whether Hayman correctly or incorrectly asserted that UDF’s business was a Ponzi scheme, not the relative value of Moayedi’s guaranty to UDF. Moreover, his guaranty is not particularly large so it would not cover the full value of Centurion loans anyway; the collateral is what backs up the loans. So this appears to be a red herring to try to obtain highly personal information of a non-party. In this regard, it should be noted that defendant Bass is a 50% owner

of an entity that has sued Moayed, so it appears that the discovery is tailored for use in another case.

Plaintiffs propose entering the order as attached to this letter. To the extent there is some genuine future need for additional production, the order leaves the door open to a future meet-and-confer to identify any such documents after Defendants have reviewed the production to be made under this order.

### **Defendants' Requested Email Searches**

Defendants have argued that the SEC investigated the same items as Defendants. Defendants have further argued that, therefore, they need the same information that Plaintiffs provided to the SEC in order to evaluate whether UDF's business was a Ponzi scheme. While Plaintiffs disagree with Defendants' contentions, Defendants will obtain the information they seek via Plaintiffs' production of the 890,000 pages of documents previously produced to the SEC.

In this context, the most constructive approach is for Plaintiffs to complete their production to Defendants. That will provide Defendants with the same documentation that was made available to the SEC in considering what Defendants assert are the same issues. The production is expansive and thorough. Upon completion of this SEC production plus the ongoing Whitley Penn production, Plaintiffs will have produced around two million pages of documents.

The SEC production will cover the issues that Defendants have argued are relevant, such as the nature of discretionary advances, the nature of project developments, etc. The production will include both email and non-email documents.

In contrast, Defendants' requested email searches are unduly burdensome and not tied to Defendants' Ponzi scheme narrative. In addition, many of Defendants' requested email searches are duplicative of time-consuming and expensive searches already performed by Plaintiffs.

For example, Defendants request all Plaintiffs' communications with EisnerAmper. Not only is the request lacking any search terms, Defendants had previously agreed upon a scope of documents to be produced for communications with EisnerAmper and Plaintiffs had spent a large amount of time and money producing EisnerAmper communications. It is not proper for Defendants to negotiate an agreed-upon production of communications between Plaintiffs and EisnerAmper and then ask Plaintiffs to do it all over again, but on a broader basis without search terms.

The same holds true for Riveron.

Similarly, Defendants ask for all emails to the SEC, DOJ and FBI—with no search terms at all. That is contrary to what Defendants said they would do, i.e., provide search terms.

Similarly, Defendants ask for all emails between Plaintiffs and various Centurion personnel, without using search terms.

Similarly, Defendants ask for all emails between Plaintiffs and twenty banks, without using search terms for any of the twenty banks.

Similarly, Defendants ask for all emails between Plaintiffs and four broker dealers who worked with Plaintiffs, without using search terms.

Similarly, Defendants ask for all emails between Plaintiffs and various persons, without using search terms.

All of those requests are directly at odds with how Defendants have characterized how discovery should be highly targeted with respect to document requests served on Defendants, which involves a far smaller pool of documents to begin with. It is also at odds with arguments made to Judge Akin about how Defendants could make email searches be reasonable and “fairly narrow.”

And that is just the warmup.

Defendants then request that Plaintiffs also run around 100 additional searches for emails. The search terms seek to require Plaintiffs to find any email that include any common word such as “lender!”. Or “bank!”. Or “default!”. Or “overdue!”. Or “adverse”. Or “exten!”. Or “forbear!”. Or “disclose”. Or “settle!”. Or “reimburse”. Or “indemnify”. Or “derivative”. Or “scheme”. Or “scam”. And so forth.

Would Defendants agree to search common words if demanded by Plaintiffs and as would be relevant to Plaintiffs’ Original Petition, such as “short”, “profit”, “scheme”, “drive”, “zero”, “FBI”, “SEC”, “DOJ”, “Texas”, “REIT”, “collateral”, and so forth?

Defendant also request searches on word combinations that are also very common, such as having the words “future” and “project” or “future” and “collateral” appear anywhere in the same document.

Defendants also request searches on phrases that commonly appear in lending documents—such as “notice of default”—even though Plaintiffs already spent the time and money to review and produce loan files to Defendants.

Unfortunately, it appears that Defendants seek to unduly burden Plaintiffs with oppressive email searches that are duplicative of prior work and the upcoming production of documents previously produced to the SEC.

### **Defendants’ Request for Financials**

Plaintiffs are producing today the remainder of their financials (i.e., for UDF III, UDF LOF and UDF LOF I).

August 13, 2021

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As to your request for financials from 2010 forward, that was not the period set forth in Defendants' requests for production. To my knowledge, your August 4 letter is the first time Defendants have ever made any suggestion that financials should be produced back to 2010 (if I am mistaken, please let me know). There is no reason to produce financials for an eleven-year period; that is overbroad, unduly burdensome and not called for by the requests for production.

**Whitley Penn/EisnerAmper/Native Format**

Additional Whitley Penn emails are being reviewed for production, and a substantial additional production will be made next week. Going forward, spreadsheets are being redacted in native format, as Plaintiffs have been doing for some time now. Plaintiffs do not agree to redo all of the work they did to provide the spreadsheets in redacted PDF form, but I believe we can reach an agreement on production of native spreadsheets if Austen Irrobali and Ian Browning confer on the details. If there is a particular spreadsheet of interest, please advise.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan E. Sommer", written in a cursive style.

Jonathan E. Sommer

# EXHIBIT C

## Cirangle, Ellen

---

**From:** Jeff Tillotson <jtillotson@tillotsonlaw.com>  
**Sent:** Tuesday, August 24, 2021 8:04 AM  
**To:** Cirangle, Ellen; Sommer, Jonathan; Leon Carter; Linda Stahl  
**Cc:** Jon Patton; Austen Irrobali; Danielle J. Gould  
**Subject:** Objection to Depositions

Ellen—

With the exception of today's deposition, we do not agree that depositions unilaterally noticed by UDF can go forward at this point in time.

UDF has not completed its document production and refuses to comply with many, many requests. UDF won't even commit to a firm date for the SEC production (the most recent "proposed" date by UDF is September 15 and has refused to provide us with the SEC transcripts or other materials required.

We need resolution of our motions and full production by UDF. In addition, UDF is just now producing documents it obtained from third parties months ago despite our repeated requests.

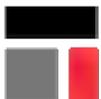
I assume your side opposes this and so we will file our motion and have it heard by Judge Akin (since UDF at least agrees he is our "discovery judge" despite requesting he hear substantive motions in the past).

Thank you,  
Jeff

**Jeff Tillotson**

**Tillotson Law**

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**TILLOTSON LAW**  
ATTORNEYS AT LAW

### Automated Certificate of eService

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Gloria Beasley on behalf of Jonathan Sommer  
Bar No. 24002974  
gbeasley@lubinolson.com  
Envelope ID: 56751457  
Status as of 8/30/2021 8:46 AM CST

Associated Case Party: UNITED DEVELOPMENT FUNDING II, L.P, A DELAWARE LIMITED PARTNERSHIP

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Leland C.de la Garza		ldelagarza@hallettperrin.com	8/27/2021 7:11:50 PM	SENT
Stewart H.Thomas		sthomas@hallettperrin.com	8/27/2021 7:11:50 PM	SENT
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Joshua C.Rovelli		jrovelli@hallettperrin.com	8/27/2021 7:11:50 PM	SENT
Jesse Beck		jbeck@hallettperrin.com	8/27/2021 7:11:50 PM	SENT

Associated Case Party: J.KYLEBASS

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Jonathan RPatton		jpatton@tillotsonlaw.com	8/27/2021 7:11:50 PM	SENT
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Edgar Leon Carter
Courtney Perez

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Associated Case Party: HAYMAN CAPITAL MANAGEMENT, L.P.

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Associated Case Party: HAYMAN CAPITAL MANAGEMENT, L.P.

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