

STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )

ERIC C. WILKINSON; DAVID MICHAELS; )  
DONALD K. BLAKE; MICHAEL H. KETCHER; )  
and SCOTT STOLTZ, )

Case No.: AP-18-11

*Respondents.* )

Serve: )

Eric C. Wilkinson )  
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**ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY  
RESTITUTION, CIVIL PENALTIES, AND COSTS SHOULD NOT BE IMPOSED**

On May 17, 2018, the Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“Enforcement Section”), through Enforcement Counsel Desiree J. Vitale, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (“Petition”). After reviewing the Petition, the Commissioner issues the following order:

The Petition alleges the following facts:

**I. SUMMARY OF ALLEGATIONS**

1. From about December 2, 2013 to June 11, 2015, three St. Louis, Missouri residents invested a total of \$50,000 in Apothecary Films, Corp. (“AFC”), a California company purportedly in the film business. The investments were solicited by at least three St. Louis, Missouri area residents who are associated and/or affiliated with AFC: Donald K. Blake (“Blake”), Michael H. Ketcher (“Ketcher”), and Scott Stoltz (“Stoltz”). The funds were to be used to complete a film entitled *A Fall From Grace*. The two principals of AFC, Eric C. Wilkinson (“Wilkinson”) and David Michaels (“Michaels”), executed investment contracts with all three Missouri residents. To date, only one investor has received any money back after making the investment. AFC’s bank records reflect that a majority of the investment funds were spent on personal expenses and not the film as promised in the investment contracts.

**II. ALLEGATIONS OF FACT**

**A. Respondents**

2. AFC is a California company organized in the state of California on September 9, 2014.
3. Its registered agent was Eric Charles Wilkinson, 11127 La Maida Street, Suite 29, West Toluca Lake, California 91601.
4. As of May 1, 2017, AFC was dissolved by a vote of all the shareholders of the corporation and filed its dissolution with the California Secretary of State.
5. A check of the records maintained by the Commissioner indicates that at all times relevant, there was no registration, granted exemption, or notice filing indicating status as a “federal covered security” for any securities issued by AFC.
6. Wilkinson is a 44 year-old California resident with a last known address that is the same as AFC above.
7. A check of the Central Registration Depository (“CRD”) indicates that at all times relevant, Wilkinson was not registered as an investment adviser, broker-dealer,

investment adviser representative, broker-dealer agent, and/or issuer agent.

8. Michaels is a 54 year-old California resident with a last known address at 1811 North Normandie Ave., Apt 4, Los Angeles, California 90027-3961.
9. A check of the CRD indicates that at all times relevant, Michaels was not registered as an investment adviser, broker-dealer, investment adviser representative, broker-dealer agent, and/or issuer agent.
10. Blake is a 56 year-old Missouri resident with a last known address at 7218 Zephyr Place, Apt 103, St. Louis, Missouri 63143-2336.
11. A check of the CRD indicates that at all times relevant, Blake was not registered as an investment adviser, broker-dealer, investment adviser representative, broker-dealer agent, and/or issuer agent.
12. Ketcher is a 65 year-old Missouri resident with a last known address at 7416 Delmar Boulevard, St. Louis, Missouri 63130-4034.
13. A check of the CRD indicates that at all times relevant, Ketcher was not registered as an investment adviser, broker-dealer, investment adviser representative, broker-dealer agent, and/or issuer agent.
14. Stoltz is a 48 year-old Missouri resident with a last known address at 2439 Chaucer Avenue, St. Louis, Missouri, 63114.
15. A check of the CRD indicates that at all times relevant, Stoltz was not registered as an investment adviser, broker-dealer, investment adviser representative, broker-dealer agent, and/or issuer agent.

**B. Enforcement Section's Investigation**

**Missouri Resident 1 ("MR1")**

16. A 56-year old St Louis, Missouri resident ("MR1") met Blake and Ketcher approximately 5 years ago. A friendship developed based on all parties' interest in film making.
17. AFC was to make a film titled *A Fall From Grace*.
18. On or around December 2, 2013, Blake and Ketcher solicited a \$10,000 investment from MR1 that was to help AFC make the film.
19. In return for the \$10,000 investment, Wilkinson, Michaels, and MR1 executed an investment contract that indicated the investment funds would be returned along with 20% interest.

20. According to the investment contract, if the film was not produced by December 31, 2014, MR1 could demand the principal investment funds back.
21. The investment contract indicated the funds would be used “for the purpose of underwriting preparatory costs associated with final phases of development, thereby advancing the Picture towards physical production.”
22. The film was not produced by December 31, 2014.
23. Wilkinson told MR1 that Wilkinson and/or AFC needed an additional \$25,000 to promote the film.
24. On or about May 5, 2014, Wilkinson, Michaels, and MR1 executed another investment contract that specified that the \$25,000 investment would be spent on “underwriting preparatory costs associated with final phases of development, thereby advancing the Picture towards physical production.”
25. In the second investment contract, MR1 would receive 20% interest, but would receive only the principal investment back if the film was not made by January 1, 2015.
26. The film was not completed by January 1, 2015.
27. The only funds MR1 received back after continually complaining was \$5,000 in July 2015.
28. MR1 has demanded the final \$30,000 be paid back but Wilkinson, Michaels, Ketcher, and/or Blake tell MR1 “We don’t have it. We’re trying to get it.”
29. Blake and/or Ketcher told MR1 that approximately 30 other St. Louis residents invested a total of \$300,000 in AFC.
30. Blake and/or Ketcher encouraged MR1 to find other investors for AFC, but MR1 was unsuccessful in doing so.
31. MR1 performed no duties and had no responsibilities after making the investments.

**MR1’s \$10,000 Initial Investment**

32. A review of AFC’s US Bank account ending in #1879 from December 2, 2013 to December 26, 2013 revealed, among other things:
  - a. Wilkinson had sole signatory authority on the account;
  - b. a beginning balance of \$1,753.88 on December 2, 2013;

- c. \$10,104.82 in deposits that included a \$10,000 wire from MR1 that was deposited on December 4, 2013;
- d. payments in excess of \$2,000 to restaurants, gas stations, liquor stores, and grocery stores;
- e. \$1,510 transferred to Wilkinson's personal US Bank account ending in #6192;
- f. \$4,497 in cash withdrawals;
- g. \$3,020 in checks written that included:
  - i. \$1,200 to an individual for rent;
  - ii. \$500 to Blake for "AFFG finder's fee";
  - iii. \$500 to Ketcher for "AFFG Finder's Fee";
  - iv. \$720 to Reaume & Associates, Inc. for "#1827/02 BMW"; and
  - v. \$100 to an individual for "courier services"; and
- h. ending balance of \$587.47 on December 26, 2013.

**MR1's \$25,000 Investment**

- 33. A review of the AFC's US Bank account ending in #1879 from May 1, 2014 to May 20, 2014 revealed, among other things:
  - a. a beginning balance of \$1,580.13 on May 1, 2014;
  - b. \$37,880 in deposits that included:
    - i. a \$25,000 wire from MR1 that was deposited May 8, 2014;
    - ii. a \$10,000 wire from an Illinois business deposited May 13, 2014;
    - iii. a \$2,720 cash deposit; and
    - iv. \$160 transferred from Wilkinson's personal account ending in #6192;
  - c. payments in excess of \$9,500 on airline tickets and restaurants;
  - d. \$6,200 in checks written that included:
    - i. \$1,200 to an individual for "May #29"; and

- ii. \$5,000 to an individual for “DM AFFG fee”;
- e. \$23,370.73 transferred to Wilkinson’s personal US Bank account ending in #6192; and
- f. ending balance of \$103.23 on May 20, 2014.

**\$5,000 Repayment to MR1**

- 34. A review of AFC’s US Bank account ending in #1879 during the month of July 2015 revealed a \$5,000 check payable to MR1 dated July 15, 2015 for “AFFG repayment.”

**Missouri Resident 2 (“MR2”)**

- 35. Approximately 2 years ago, a 34-year-old St. Louis Missouri resident (“MR2”), was contacted by Stoltz who told MR2 about a film project, titled *A Fall From Grace*, that was being produced by AFC and Wilkinson.
- 36. Stoltz told MR2 that he had invested a substantial amount of money (MR2 didn’t know how much) in the film and believed the return on the investment would be good.
- 37. Due to Stoltz’s excitement over the project, and Stoltz’s belief that the film would be successful, MR2 invested \$10,000 via wire to AFC’s US Bank account.
- 38. MR2 never communicated with Wilkinson but did receive some materials from Wilkinson, including a “Short Form Shareholder Terms” contract that stated, among other things, “Shareholder has agreed to invest a total amount of \$10,000 USD into Picture for the purpose of preparatory costs associated with the films packaging.”
- 39. The investment contract further stated that “Upon commencement of principal photography (the films ‘start date’ for shooting), Shareholder’s principal sum of \$10,000 plus a 30% premium (for a total payout of \$13,000) will be paid back on an equal basis with the other shareholders in the Picture during and while filming is taking place. Producer will pay this to Shareholder within 15 days of receipt.”
- 40. MR2 was to receive one-quarter of one percent (0.25%) from the Producers backend pool from which royalties, residuals, and global returns are received.
- 41. Per the investment contract, “Shareholder is to be notified by mail or email if Picture will not be produced or filmed on or before December 31, 2015. Upon such notification, Shareholder will have first option to assign and transfer the \$10,000 principal investment and its 30% premium to an alternative Apothecary Films production of Shareholder’s choice. A written assignment will be executed between undersigned parties identifying the alternative Apothecary films production.”
- 42. The investment contract was signed by MR2, MR2’s spouse, Wilkinson, and Michaels.

43. The film was not completed by December 31, 2015.
44. On or about January 25, 2016, MR2, MR2's spouse, Wilkinson, and Michaels executed a contract titled "A FALL FROM GRACE Addendum" that specified, among other things, the following:
  - i. "Upon commencement of principal photography for either property, not just 'A Fall from Grace', but whichever project goes first between 'A Fall from Grace' and 'Strange Blood', Shareholders will receive their original terms as agreed for 'A Fall from Grace.'"; and
  - ii. "This is an addendum stemmed from and in relation Line Item 8 in their original contract for 'A Fall from Grace' as it stipulates 'shareholder' will be able to choose an alternative Apothecary Films property should production not occur by 12/31/2015. Shareholder has chosen 'Strange Blood' for that alternative property. Whichever of the two above film properties should go first, Shareholder will have right of original terms."
45. To date, MR2 has not received a return on the investment.
46. MR2 performed no duties and had no responsibilities after making the investment.

**MR2's \$10,000 Investment**

47. The Enforcement Section reviewed AFC's US Bank account ending in #1879 from June 1, 2015 to June 30, 2015 and found, among other things, the following:
  - a. a beginning balance of \$645.90 on June 1, 2015;
  - b. deposits totaling \$16,525.64 that included:
    - i. a \$1,275 check from an unknown individual for "June Rent" deposited June 2, 2015;
    - ii. \$2,500 in deposits from Quickpay on June 5 and June 9, 2015;
    - iii. a \$10,000 wire from MR2 on June 11, 2015;
    - iv. a \$2,750 wire from an unknown individual on June 19, 2015; and
    - v. 64 cents in authorized credits from JPMorgan Chase Bank;
  - c. \$1,869.75 in payments to restaurants, liquor establishments, LoanMe, and NetCredit;
  - d. ATM withdrawals totaling \$163;



- e. \$2,260 in transfers to Wilkinson’s personal US Bank account ending in #6192;
  - f. \$4,705 in checks written that included:
    - i. \$1,275 to an unknown individual for “29”;
    - ii. \$1,000 to Stoltz for “AFFG FF”;
    - iii. \$500 to Ketcher for “AFFG FF”;
    - iv. \$1,800 to Michaels for “AFFG Development”; and
    - v. \$130 to Dustin Wilkinson for “Travel Expenses”; and
  - g. ending balance of \$7,595.32 on June 30, 2015.
48. A further review of AFC’s US Bank account ending in #1879 from August 2014 to July 2015 revealed Stoltz received the following additional payments via checks payable to Stoltz:
- a. \$500 on August 7, 2014 for “Strange Blood FF”;
  - b. \$1,000.50 on December 5, 2014 for “AFFG-finder fee”; and
  - c. \$1,500 on July 13, 2015 for “AFFG (ff).”

**Missouri Resident 3 (“MR3”)**

- 49. In or around February 2014, an associate producer for AFC, told a 36-year-old St. Louis, Missouri resident (“MR3”) about AFC and a film project they were working on titled *A Fall From Grace*.
- 50. The associate producer solicited MR3 to invest in AFC.
- 51. On or around February 4, 2014, MR3 invested \$5,000 via check payable to AFC.
- 52. On February 21, 2014, MR3 received a “Short Form Shareholder Terms” contract signed by Michaels and Wilkinson via email from the associate producer.
- 53. Among other things, the contract specified that the investment funds would be used “for the purpose of underwriting preparatory costs associated with final phases of development, thereby advancing the Picture towards physical production.”
- 54. The contract also promised “a 20% premium on the principal investment of \$5,000.”
- 55. MR3 has not received any return on MR3’s investment with AFC.



56. MR3 performed no duties and had no responsibilities after the investment.

### **MR3's \$5,000 Investment**

57. The Enforcement Section reviewed AFC's US Bank account ending in #1879 from February 3, 2014 to February 28, 2014 and found, among other things, the following:
- a. a beginning balance of \$6,792.73 on February 3, 2014;
  - b. \$25,000 in deposits that included:
    - i. a \$20,000 wire from an unknown individual on February 13, 2014; and
    - ii. a \$5,000 check payable to AFC from MR3 deposited February 24, 2014;
  - c. over \$1,800 in payments to restaurants, liquor stores, Macy's, and golf clubs;
  - d. \$2,000 in cash withdrawals;
  - e. \$2,000 in withdrawals/transfers to Wilkinson's personal account;
  - f. \$14,550 in checks written that included:
    - i. \$1,200 to an unknown individual for "February #29";
    - ii. \$4,000 to an unknown individual for "Strange Blood";
    - iii. 2 checks totaling \$8,750 to an unknown individual for "David Michaels-budget fee" and "David Michaels-SB"; and
    - iv. \$600 to a family member for "Dev. Funding Advance"; and
  - g. ending balance of \$11,248.57 on February 28, 2014.

### **III. COMMISSIONER'S DETERMINATION AND FINDING**

#### **Violations of Offering and Selling Unregistered, Non-Exempt Securities**

58. **THE COMMISSIONER DETERMINES** that Respondents offered and/or sold unregistered, nonexempt securities, by, among other things:
- a. soliciting MR1, MR2, and MR3 to invest in AFC for the purported purpose of producing a film;
  - b. receiving funds from MR1, MR2, and MR3;

- c. providing and executing investment contracts with MR1, MR2, and MR3 which indicated that the investors would receive a percentage of the invested funds backs, in addition to the full amount of their investment; and
  - d. promising a return on MR1, MR2, and MR3's investments that was dependent upon the efforts of others and not on the efforts of MR1, MR2, and MR3.
59. These activities constitute an offer and/or sale as those terms are defined in Section 409.1-102(26).<sup>1</sup>
60. The investments that Respondents offered and/or sold constitute securities as that term is defined in Sections 409.1-102(28).
61. At all times relevant to this matter, there was no registration, granted exemption, or notice filing indicating status as a "federal covered security" for the securities offered and/or sold by Respondents.
62. Respondents offered and/or sold securities in Missouri without these securities being (1) federal covered securities, (2) exempt from registration under Sections 409.2-201 or 409.2-203, or (3) registered under the Missouri Securities Act of 2003, in violation Section 409.3-301.
63. Respondents' conduct in violation of Section 409.3-301 constitutes an illegal act, practice, or course of business and such conduct is, therefore, subject to the Commissioner's authority under Section 409.6-604.

**Violations of Transacting Business as an Unregistered Agent**

64. **THE COMMISSIONER FURTHER DETERMINES** that Respondents Blake, Ketcher, and Stoltz each transacted business as an unregistered agent in the state of Missouri.
65. Blake, Ketcher, and Stoltz were representatives of AFC, Wilkinson, and Michaels.
66. Blake, Ketcher, and Stoltz offered and/or sold securities to investors on behalf of AFC, Wilkinson, and Michaels by, among other things, offering and/or selling investments to MR1, MR2, and MR3.
67. This activity constitutes transacting business in the state of Missouri under Section 409.1-102(1).
68. At all times relevant to this matter Blake, Ketcher, and Stoltz were not registered as securities agents in the state of Missouri.

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<sup>1</sup> Unless otherwise specified, all statutory references are to the 2016 Revised Statutes of Missouri.

69. Blake, Ketcher, and Stoltz transacted business in Missouri by offering and/or selling securities without being registered or exempt from registration as an agent in violation of Section 409.4-402(a).
70. Blake, Ketcher, and Stoltz's conduct is in violation of 409.4-402(a) and constitutes an illegal act, practice, or course of business, and such conduct is, therefore, subject to the Commissioner's authority under Section 409.6-604.

#### **Violations of Employing an Unregistered Agent**

71. **THE COMMISSIONER FURTHER DETERMINES** that Respondents AFC, Wilkinson, and Michaels employed Blake, Ketcher, and Stoltz, who offered and sold securities on behalf of AFC
72. AFC's, Wilkinson's, and Michaels's activities constitute employing and/or associating with an agent in the state of Missouri under Section 409.4-402(d).
73. At all times relevant to this matter, AFC, Wilkinson, and Michaels had no registration or granted exemption for any agents of AFC to transact business in the state of Missouri.
74. AFC, Wilkinson, and Michaels employed and/or associated with Blake, Ketcher, and Stoltz, each of whom transacted business in Missouri as an agent without being registered or exempt from registration as an agent, in violation of Section 409.4-402(d).
75. AFC's, Wilkinson's, and Michaels's conduct in violation of Section 409.4-402(d) constitutes an illegal act, practice, or course of business, and such conduct is, therefore, subject to the Commissioner's authority under Section 409.6-604.

#### **Multiple Violations of Making an Untrue Statement, Omitting to State Material Facts or Engaging in An Act, Practice, or Course of Business that Would Operate as a Fraud or Deceit Upon Another Person in Connection with the Offer or Sale of a Security**

76. **THE COMMISSIONER FURTHER DETERMINES** that in connection with the offer, sale or purchase of a security as described above, Respondents made untrue statements to MR1, MR2, and MR3, and omitted material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading. Such untrue statements and material omissions included, but were not limited to, the following:
  - a. that MR1 would receive 20% return of her initial investment, and that if the film was not produced by December 13, 2014 that MR1 could demand the principal investment funds;
  - b. that MR1 would receive 20% return of her second investment of \$25,000, but would only receive the principal investment funds back if the film was not made by January 1, 2015;

- c. that MR2 would receive 30% return of his investment of \$10,000 on an equal basis with the other shareholders during and while filming took place. In addition, MR2 was to receive one quarter of one percent (.25%) from the Producers backend pool (“Net Profits”);
  - d. that MR3 would receive 30% return of his investment of \$5,000; and
  - e. that MR1, MR2, and MR3 were told that their investments would be used for underwriting preparatory costs associated with final phases of development, thereby advancing the Picture toward physical production, but Respondents instead were using the funds for other business and personal expenses not related to the film development.
77. These statements, in light of the circumstances under which they were made, were misleading statements because Respondents omitted to disclose the following material facts that could impact the return and the viability of MR1’s, MR2’s, and MR3’s investments:
- a. that Respondents were not registered to offer and/or sell securities in Missouri; and
  - b. that the investments offered and sold to MR1, MR2, and MR3 were not registered or exempt from registration;
78. **THE COMMISSIONER FURTHER DETERMINES** that in connection with the offer, sale or purchase of a security as described above, Respondents, engaged in an act, practice or course of business that would operate as a fraud or deceit upon MR1, MR2, and MR3 by, among other things:
- a. convincing MR1, MR2, and MR3 to invest in AFC; and
  - b. failing to use the funds invested by MR1, MR2, and MR3 for the purposes outlined in the investment contracts proffered by Respondents.
79. Respondents made untrue statements, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made not misleading and engaged in an act, practice, or course of business that would operate as a fraud or deceit upon another person, in violation of Section 409.5-501.
80. Respondents’ conduct in violation of Section 409.5-501 constitutes engaging in an illegal act; practice, or course of business, and such conduct is, therefore, subject to the Commissioner’s authority under Section 409.6-604.
81. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. *See* Section 409.6-605(b).

#### **IV. ORDER**

**NOW, THEREFORE**, it is hereby ordered that Respondents, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this order be prohibited from violating or materially aiding in any violation of:

- A. Section 409.3-301, by offering or selling any securities as defined by Section 409.1-102(28) in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-301;
- B. Section 409.4-402(a), by transacting business as an unregistered agent;
- C. Section 409.4-402(d), by employing an unregistered agent; and
- D. Section 409.5-501, by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

#### **V. STATEMENT**

Pursuant to Section 409.6-604, the Commissioner hereby states that he will determine whether to grant the Enforcement Section's requests for:

- A. \$10,000 civil penalty against each Respondent for more than one violation of Section 409.3-301;
- B. \$10,000 civil penalty against Blake, Ketcher, and Stoltz for more than one violation of Section 409.4-402(a);
- C. \$10,000 against Respondent Wilkinson and Michaels for more than one violation of Section 409.4-402(d);
- D. \$10,000 civil penalty against each Respondent for more than one violation of Section 409.5-501;
- E. an order against Respondents to pay restitution in the amount of \$45,000 or more for any loss, including the amount of any actual damages that may have been caused by the conduct, and interest at the rate of 8% per year from the date of the violation causing the loss or disgorge any profits arising from the violation of Sections 409.4-402 and 409.5-501, in the final order, unless Respondents request

a hearing and show cause why this restitution or disgorgement should not be imposed; and

- F. an order against Respondents to pay the costs of the investigation in this proceeding, after a review of evidence of the amount submitted by the Enforcement Section.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 17th DAY OF MAY, 2018.



JOHN R. ASHCROFT  
SECRETARY OF STATE

  
\_\_\_\_\_  
DAVID M. MINNICK  
COMMISSIONER OF SECURITIES



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )

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Case No.: AP-18-11

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**NOTICE**

**TO: Respondents and any unnamed representatives aggrieved by this Order:**

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), RSMo. (2016), and 15 CSR 30-55.020. Any request for a hearing before the Commissioner must contain:

- a. a brief statement of the facts;
- b. a summary of the factual and legal issues involved;
- c. a request for relief;
- d. suggestions in support of the relief sought, including the relevant statutes;
- e. the name of the party requesting the hearing; and
- f. the name of the attorney representing the party, if any.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing, to:

**David M. Minnick, Commissioner of Securities  
Office of the Secretary of State, Missouri  
600 West Main Street, Room 229  
Jefferson City, Missouri, 65102**

CERTIFICATE OF SERVICE

I hereby certify that on this 17<sup>th</sup> day of May, 2018, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed in the above styled case was **mailed by certified U.S. mail and emailed to:**

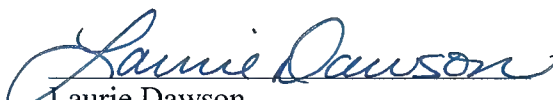
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