

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:19-CV-80633-ROSENBERG

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

NATURAL DIAMONDS INVESTMENT CO.,

et. Al

Defendants,

**NOTICE OF SERVICE OF UNVERIFIED OBJECTIONS AND RESPONSES TO
RECEIVER'S INTERROGATORIES AND REQUEST FOR PRODUCTION
PROPOUNDED UPON RELIEF DEFENDANT, H.S. MANAGEMENT GROUP, LLC
AND DEFENDANT, HAROLD SEIGEL.**

COMES NOW, Relief Defendant, H.S. MANAGEMENT GROUP, LLC, and Defendant, HAROLD SEIGEL, by and through undersigned counsel, hereby files this Notice of Service of Unverified Objections and Responses to Interrogatories and Request for Production propounded September 17, 2020 by Receiver pursuant to the Magistrate's Order Memorializing Rulings and states:

Relief Defendant, HS MANAGEMENT GROUP, LLC., and Defendant, HAROLD SEIGEL, maintain its respective prior objections to:

- 1) the Receiver's original Motion to Compel compliance with TRO ruled as Moot;
- 2) the Receiver's Amended Motion to Compel 'compliance' with TRO to the extent the Magistrate ruled, inter alia, the Receiver lacks standing to enforce the TRO and otherwise recognized that the plain language of the TRO does not unambiguously require Defendant, Harold Seigel, to give the Receiver the requested information;

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3) the Receiver's Motion To Compel and Amended Motion to Compel to the extent Receiver cited the Appointment of Receiver Order as a means to "compel" Relief Defendant, HS MANAGEMENT GROUP, LLC and Defendant, HAROLD SEIGEL, answer the specific detailed inquiries otherwise set forth in the TRO, which later morphed into an informal request for information on "categories of topics" *never* reduced to formal written or propounded discovery requests in accord with the Federal Rules of Civil Procedure as required under the Appointment of Receivership Order [¶9 DE40] *nor* requested during the operative discovery period afforded all parties in this case pursuant to the case scheduling order, but were solely informally requested by Receiver of Relief Defendant, HS Management Group, LLC and Defendant, Harold Seigel, *only after* these Defendants had fully resolved and settled their case through consent judgement with the SEC.

Relief Defendant, HS MANAGEMENT GROUP, LLC., and Defendant, HAROLD SEIGEL, otherwise objects to the Magistrate's Order Memorializing Rulings granting Receiver's Amended Motion To Compel based upon the Order Appointing Receiver [DE 40 ¶9] to the extent that:

1) Relief Defendant, HS MANAGEMENT GROUP, LLC, and Defendant, HAROLD SEIGEL, maintains Receiver's informal request for information was defective having failed to satisfy its own obligations under its Appointment Order in that the Receiver failed to make its discovery requests in accord with the Federal Rules of Civil Procedure prior to filing its Motion to Compel or Amended Motion to Compel. See, ¶ 9 DE40, "*In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entity, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.*" To the extent the Magistrate granted Receiver a right to informal discovery in contravention of this

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court's orders setting discovery cut off and otherwise finding the discovery cut off orders don't apply to the Receiver, these Defendants maintain the Magistrate abused his discretion where the very provision the Magistrate relied on to enforce the production specifically indicated the discovery needed to be formal and be had in accord with the Federal Rules of Civil Procedure; 2) the Magistrate compelled Defendants respond to the Receiver's informal broad based categories of information *without specific inquiry or due consideration* for whether each of the informal requests for information fell squarely within the authorizing second prong of the Receiver Appointment Order [DE 40 Paragraph 9] necessary to determine Receiver's entitlement to the information sought. Specifically, the second prong of paragraph 9 of the Appointment Order entitling Receiver to the requested information, to wit: DE 20, ¶9 states,

“The individual Receivership Entity and the entity Receivership Entity's past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners, and other appropriate persons or entities *shall answer under oath to the Receiver* all questions which the Receiver may put to them and produce all documents as required by the Receiver **regarding the business of the Receivership Entity, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Entity.** *In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entity, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.*”

At no time had the Magistrate made specific inquiry of the Receiver seeking its basis for the requested information to determine whether same was privileged, confidential or how each of its informally requested “categories” of information reasonably related to or was otherwise within the scope of information to which Receiver would even be entitled, much less whether the requested informal information was proportionately related to the SEC case and claims brought

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against Relief Defendant, HS Management Group, LLC or Defendant, Harold Seigel, by the SEC. To this end, these Defendants additionally object to the informal requests contending there was no showing as to how they conformed to the second prong of ¶9 DE40 much less its proportionate basis given these Defendants had already settled with the SEC and there being absolutely no legitimate basis upon which Receiver could rely to contend its entitlement to the information for the purpose of collection where neither Defendant was holding assets for the benefit of the Receivership entities (hence to right to claw back) and the SEC had and continued to assert to the court its intention to utilize its own collections department to enforce the judgement which, if delegated to the Receiver (which it specifically was not), would cost the investors' money; additional costs and dissipation of Investor assets the SEC seeks to avoid;

3) Additionally, Defendants object to the Receiver's grant of authority to 'now' propound brand new formal discovery requests in the form of Interrogatories and Request for Production "pertaining to" but which may now exceed and expand upon the prior informal requests so long as they "fit within the informal list of categories" of information sought. The Magistrates grant of this authority upon Receiver now grants Defendants a renewed right to object to this discovery seeking the Magistrate abused his discretion by Authorizing Receiver propound discovery where Receiver blatantly failed to take advantage of the opportunity to conduct discovery during the case in chief and only first requested informal discovery after these Defendants settled with the SEC; ruled Receiver entitled to informal discovery long after court ordered scheduled discovery cut-off without Receiver seeking leave of court and in contravention of Receiver Appointment Order DE 40 ¶9 calling for the issuance of formal discovery in accord with the Federal Rules of Civil Procedure; authorized Receiver draft and propound formal discovery long after the court ordered trial schedule discovery cutoff and after these Defendants have settled their case in chief

with the Plaintiff; authorized Receiver draft and propound formal discovery relying on Receiver Appointment Order without due consideration for whether the requests fall squarely within the scope of information to which Receiver is entitled under the Appointment Order. [DE40 ¶9].

As previously maintained, this case has been going on and the TRO and Appointment of Receiver Order issued well over a year and a half ago without Receiver seeking any formal discovery against this Relief Defendant or otherwise making informal demands prior to this Relief Defendant having reached full settlement with the SEC and only after the discovery deadline had lapsed as imposed on all parties through Trial and Case Management Orders in this case. Despite Receiver's assertion that its Appointment Order exceeds any and all other Orders in this case, that it is not subject to any discovery deadlines, one need look no further than the Appointment Order itself to realize the Receiver is bound by the Federal Rules of Procedure for discovery like every other Defendant in this case.

Receiver, like all other parties to the SEC action must abide by all Orders of this Court, including Trial and Case Management Orders setting discovery deadlines as well as the Federal Rules of Procedure. Relief Defendant, H.S. Management, LLC, has a right to expect, not only that such orders apply to the Receiver as Defendant in this action like any other Defendant, but that a settlement had been reached in full satisfaction of all claims brought against it by the SEC Plaintiff; the real party in interest in this case.

Moreover, the Receiver has failed to make any assertion, let alone a showing that Relief Defendant is "holding assets or other property" belonging to or for the benefit of Defendant, Jose Aman or the Defendant, Receivership entities. To the contrary, the evidence in this case shows that Relief Defendant alone had received monies from Receivership entities for the work performed by the Relief Defendant's employees, Defendant, Harold Seigel and Defendant,

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Jonathan Seigel, for having marketed Defendant, Jose Aman, and Mr. Aman's corporate entities, now the Receivership entities, Eagle, Natural and Argyle's "investment" opportunities. Relief Defendant, HS MANAGEMENT GROUP, LLC, previously provided Receiver with all information in response to the TRO order, which response was what rendered the Receiver's initial Motion to Compel moot. Through that production of information, the Receiver learned the monies paid from the Receivership entities solely to Relief Defendant HS Management with a broad-brush breakdown on where those monies went and where it did not. Specifically, neither Relief Defendant nor its employees, Defendant, Harold Seigel or Jonathan Seigel, were holding in trust for or otherwise concealing assets or property for the benefit of Defendant, Jose Aman or the Defendant, Receivership entities. Further, Relief Defendant, HS Management Group, LLC did not receive any fraudulent transfers from the Receivership entities. Neither of these defendants were a puppet holding an account for Eagle or Natural to funnel its fraudulent earnings. To the contrary, the monies received from the Receivership entities were used solely for the benefit of the business operating expenses to include payment of rent, employee salary, vendors, and business costs. Regardless of how the monies received by Relief Defendant HS Management was spent, Defendants, Harold and Johnathan Seigel, along with Relief Defendant, HS Management Group, LLC have entered settlement with the Plaintiff SEC, agreeing to the entry of the Final Judgement (already entered by this court) for disgorgement of the assets *received by Relief Defendant, HS MANAGEMENT GROUP, LLC* for the work performed by its employees, Harold Seigel and Johnathan Seigel having marketed the Receivership entities' product; the only action subjecting Defendant Harold Seigel and Johnathan Seigel to the claim brought against them by the SEC for allegedly having marketed an unregistered security. The Relief Defendant and Defendant Harold Seigel's settlement with the SEC settles all aspects of

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the SEC claim against it for the monies Relief Defendant, HS Management Group, LLC received from the Receivership entities.

Category 1: These Defendants have steadfastly maintained and asserted to both the SEC and the Receiver that the 50 carat white diamond presently on auction through Lavish is not the diamond alleged by the Receivership entities to be collateral for the Receivership investments. As previously advised, the white diamond asserted by Defendant Aman to be the collateral for his investment opportunity was a 50-carat rough diamond whereas the one presently on auction is a 50-carat cut and polished diamond on auction through a dealer in Dubai where its owner, a person unknown to these Defendants, is holding his property. A picture of the 50-carat white cut and polished diamond along with the GIA report previously produced to Receiver is attached hereto.

Category 2: Objection. This case is settled between the SEC and these Defendants. Discovery is completed and the Defendants have a right to rely on its settlement as being full and final with the SEC. The Receiver is not a Plaintiff, but an individual that stands in the shoes of the Defendant Receivership entities as it relates to this Defendant and Relief Defendant in the SEC case at bar. The Defendant and Relief Defendant have a reasonable right to an end to this case and not otherwise be continuously tethered at the whim of the Receiver. This Receiver notably has failed to avail himself of the discovery afforded him during the pendency of this litigation. The Magistrate ruled Receiver without standing and otherwise not entitled to the information sought under the plain meaning of the TRO as it pertained to Harold Seigel or his assets personally. The Receiver should not now be afforded an opportunity to regrow an apple tree for the purpose of growing a new apple so he can take a bite he failed to previously take. Neither Rare Colored Diamonds, Inc., H. Seigel Fine Auctions, Inc or Lavish Auctions are relief

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defendants in this case nor are they affiliated in any respect to the Receivership entities. The Appointment Order of the Receiver does not provide Receiver a basis to pursue inquiries regarding these entities on behalf of the investors. Javitch v. First Union Securities, Inc., 315 F. 3d 619 (6th Cir. 2003) (the duty of Receiver to preserve assets does not equate to the authority to pursue claims belonging to the creditors/victims). Scholes v. Lehman, 56 F. 3d 750, 753-55 (7th Cir. 1995 (Fraud on investors is for the investors to pursue, while fraud on the Receivership entity that operates to the Receivership damages is for the Receiver to pursue). Further, there is no legitimate basis upon which Receiver can rely to assert a right to documents evidencing any monies transferred to any of these entities from Relief Defendant, HS Management Group, LLC where, as here, the SEC has acquired a judgment against HS Management Group, LLC for the full recovery of disgorgement against Relief Defendant for all monies paid to it by the Receiver entities and Relief Defendant, HS Management Group, LLC asserts there were no fraudulent conveyances made to it by the Receivership entities and neither Relief Defendant, HS Management or Defendant, Harold Seigel were ever holding any assets, money or property belonging to the Receivership entity for any purpose whatsoever.

Category 3: Neither of these Defendants are holding any assets, property or diamonds belonging to Aman, the Receivership entities or the alleged investors of the Receivership entities, including those named in the discovery requests, nor have these defendants ever used any subject diamonds as collateral for anything. None of the diamonds owned by any of the listed individuals were sent to Relief Defendant, HS Management Group, LLC or to Defendant, Harold Seigel, as an agent or officer of Relief Defendant, HS Management Group, LLC. None of the diamonds owned by any of the listed individuals were sent to Defendant, Harold Seigel, for the benefit of the Receivership entities. These Defendants have never pledged any diamonds

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owned or claimed by the listed individuals as collateral for any purpose whatsoever. Defendants are without knowledge as to whether the diamonds owned by any of the listed individuals were sent to the Receivership entities or to Defendant, Jose Aman, or to someone else on behalf of the Receivership entities. These Defendants are unaware of the location of any diamonds not otherwise currently in the possession of the Receiver. The remainder of the requests are objected to on the basis that Receiver has failed to make a requisite showing as to its entitlement to the information under the Receivership Appointment Order, [DE 40 ¶9].

Category 4: To the extent Receiver contends a basis exists upon which Defendant, Harold Seigel must answer to Receiver regarding his personal finances, Defendant, Harold Seigel vehemently objects. For all times material, Defendant Harold Seigel was an officer and/or agent of the Relief Defendant, HS MANAGEMENT GROUP, LLC. Receiver is aware, through its own corporate books and banking documents that Defendant, Harold Seigel *did not* receive any direct monies or assets from Defendant, Jose Aman, or from Defendant, Receivership entities, Eagle, Natural or Argyle. Similarly, Receiver is aware, through its own Receivership entity banking documents that Defendant, Harold Seigel, did not have any access to the books or accounts of the Receivership entities. Further, Receiver is aware of correspondence issued by then counsel for the Receivership entities, Ernesto Cespedes, Esquire, indicating that neither Harold Seigel nor Jonathan Seigel should be signing their name to the Receivership entity “investment” contracts as they are neither officers or directors of the corporations. Moreover, Receiver is also aware of correspondence issued by then counsel Ernesto Cespedes to the employees of the Receivership entities that information was to be specifically withheld from the Seigels as it related to the dealing of a contract issue with an investor. These two emails, previously produced to the Receiver, are attached hereto as Exhibits. Moreover, In the case of Seng v. Eagle and Diamante Atelier, Inc, In the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida Case No: 2017 CA 10195, Defendant, Jose Aman, testifying through videotaped deposition dated 5/15/2018, testified:

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Page 10 lines 13-17: He [Jose Aman] testified that he ran the operation of Eagle Financial Diamond Group completely from A to Z (even though his ex-wife at the time was listed as President)

Page 11 lines 9-24: He [Jose Aman] believes himself to be the President and 100% beneficial ownership over Receivership entity Eagle Financial Diamond Group.

Page 14 lines 2-19: He [Jose Aman] believes himself to be the person 100% most knowledgeable on behalf of Eagle Financial Diamond Group to answer questions as corporate designee.

Page 29 lines 8-12: He [Jose Aman] is the corporate officer that signs off on the tax returns for Eagle.

Page 37 lines 17-25: He [Jose Aman] has a beneficial ownership in Natural Diamonds Investment Group with the title of Vice President.

Page 38 lines 1-24: To the extent the public records state that he [Jose Aman] was the president of Natural Diamonds Investment Group, that would change his testimony, yes.

Despite the Defendant Harold Seigel's uncontroverted testimony, the deposition testimony of Aman in the Rounds case and other material documents showing Harold Seigel was never paid by the Receivership entities and was not a signatory on the accounts of the Receivership entities and otherwise had no access to the books of the Receivership entities and otherwise was not privy to the workings of the Receivership entities or someone that otherwise exercised dominion and control over the Receiver entities, continues to erroneously contend and insinuate that Defendant, Harold Seigel, was an owner, operator, director or officer having direct control over the Receivership entities solely relying on the findings of this Court to the subject TRO order -on hearing not attended by the Seigels at a time they were unrepresented and otherwise communicated to SEC counsel their agreement to the entry of the freeze order without admitting the allegations of the complaint and otherwise preserving their right to raise their defenses- that the Seigels were officers of the Receivership entities based upon their names

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appearing as such on documents maintained by the Florida Division of Corporations.

Notwithstanding the SEC's complaint allegations and this court's entry of the TRO order on the SEC's unilateral contentions, the uncontroverted evidence has been that Defendant, Harold Seigel, did not exercise any dominion or control over the Receivership entities and was not paid by the Receivership entities.

To the extent this court finds/believes Defendant, Harold Seigel to be an officer of the Receivership entities, the information sought has nothing to do with **the business of the Receivership Entity, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Entity**, a pre-requisite to entitlement by Receiver to this personal and private information under the Receivership Appointment Order. Defendant, Harold Seigel is not holding any assets or property belonging to the Defendant, Receivership entities. Receiver has failed to make a showing that it is entitled to the personal financial information of Defendant, Harold Seigel, based merely on the fact that Harold Seigel solely received compensation for his services through Relief Defendant, HS Management Group, LLC. At no time had Defendant, Harold Seigel receive direct remuneration or compensation from the Receivership entities. As stated above, Defendant Harold Seigel has never held any monies, assets or property or otherwise concealed such assets for the fraudulent funneling benefit of the Receivership nor has Defendant, Harold Seigel received any fraudulent conveyances. In fact, Defendant, Harold Seigel paid taxes on the monies he received from HS Management Group, LLC believing same to be legitimate compensation for the work he performed over a nearly 5-year period.

Moreover, Defendant, Harold Seigel objects to any requirement that he provide his personal financial and personal banking documents or any information relative to the Colorado

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property solely owned by his wife as Receiver has no basis in law or in fact to claw back or seek to collect any of the monies Defendant, Harold Seigel was paid by Relief Defendant, HS Management Group, LLC for the services he provided the Receivership entities as an officer and agent of Relief Defendant, HS Management Group, LLC. As previously stated, the SEC is holding a judgement freely and voluntarily entered by Relief Defendant, HS Management Group, LLC and Defendant, Harold Seigel, for disgorgement of the monies HS Management received from the Receivership entities. Neither Relief Defendant nor Defendant Harold Seigel are holding any money, assets or property-including diamonds- belonging to or held for the benefit of the Receivership entities, nor were the monies paid by the Receivership entity to Relief Defendant a fraudulent conveyance. Both Relief Defendant HS Management and Defendant Harold Seigel paid legitimate federal income tax on the monies received from the Receivership entities. Neither Relief Defendant or Defendant Harold Seigel converted Receivership property to be used for the purposes of collateral or otherwise. Receiver is without standing to seek duplicate recovery for the judgement obtained by the SEC. Receiver is likewise without standing to seek to recover any assets of the SEC judgement on behalf of the SEC without their express consent. In fact, the SEC has made it quite clear through numerous assertions to the Receiver as well as the court, that the SEC is not engaging the Receiver to aid in its collection efforts particularly where it has its own collections unit tasked with collecting on the SEC's judgment without expense to the Investors. Accordingly, there is no further legitimate purpose upon which the Receiver could possibly be seeking further financial information from this Relief Defendant in this SEC case. As such, the requests are wholly disproportionate.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objections to Receiver's September 17, 2020 Discovery Requests have been emailed upon all counsel of record this 22nd day of October 2020.

Respectfully submitted,

/ELLEN M KAPLAN, ESQ
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counsel)



6177253740

September 02, 2016

GIA Report Number: 6177253740

Shape and Cutting Style: Round Brilliant

Measurements: 23.63 - 23.79 x 14.70 mm

Carat Weight: 50.03 carat

Color Grade: G

Clarity Grade: VS2

Cut Grade: Excellent



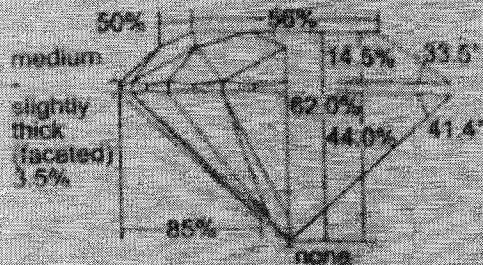
Proportions: Excellent

Symmetry: Excellent

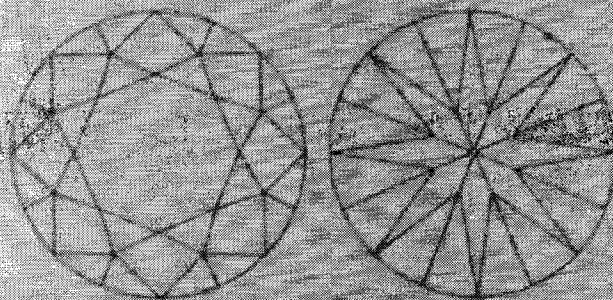
Fluorescence: None

Inscription: GIA 6177253740

Comments: Internal graining is not shown. Surface graining is not shown.



Profile to actual proportions



KEY TO SYMBOLS*

Pinpoint

Feather

Indented Natural

* All symbols denote internal characteristics included based on GIA's specific grading standards. Feathered Symbols in the overall representation of the diamond are not intended to indicate the position and approximate size of the feather, but only the presence of these internal features.

Subject: RE: Contract Eagle Rough
From: "CESPEDES LAW FIRM, P.A." <e@clfirm.attorney>
Date: 10/28/2015, 3:19 PM
To: "Raeneal Goncalves" <Raeneal@diamanteatelier.com>

Rae:

I just texted Jose to ask to speak to him because there is a problem with Harold Seigel signing off on the contracts since he is not an officer or shareholder of Eagle Financial...I'm waiting for him to call me to speak to him about this. Harold cannot sign these contracts. If he signs these, it is against my counsel.
E

No, none of the clients are asking for promissory notes, just D [REDACTED]. K [REDACTED]'s is just an example of the wording of the agreement that has gone to everyone. I don't expect that we will have to do too many more.

-----Original Message-----

From: CESPEDES LAW FIRM, P.A. [<mailto:e@clfirm.attorney>]
Sent: Wednesday, October 28, 2015 3:10 PM
To: Raeneal Goncalves <Raeneal@diamanteatelier.com>
Subject: Re: Contract Eagle Rough

Is K [REDACTED] also to receive a Promissory Note? I ask because this is the first time I am asked to draft a Promissory Note for any of these folks...also can you send it in Word? Thanks E

Here is the one for [REDACTED] K [REDACTED].

Ernesto Cespedes, Esquire

Ernesto Cespedes, Esquire

Subject: Promissory Note needed

From: "raeneal" <raeneal@diamanteatelier.com>

Date: 11/18/2015, 4:49 PM

To: "'CESPEDES LAW FIRM, P.A.'" <e@clfirm.attorney>

Hi Ernesto,

We need a promissory note drawn up for D [REDACTED], a rough parcel investor ASAP. Jose asked that you do not communicate with Harold or Jonathan about this. I would use it as a template as well if any other investor requests one. Here are her requests:

Hi Harold & Jonathan,

I finally got the money sent you should receive it in 7 days. Can you forward me some documentation that outlines the particulars of the agreement (how the guarantee is backed up, who hold the diamonds in the trust account for the guarantee, their contact information, the date the agreement is finalized, how the re payment will be conducted) any additional information you can provide.

I hope you can understand my concerns in this matter. If I would have had other dealings with you I'm sure I wouldn't have the butterflies that I have. This goes back to the old adage "If it sounds too good to be true, it probably is." The main reason I decided to follow through was the conversation I had with Dan, he has total faith and trust in you. The delay in getting the money was due to me being up at work on the Tundra and not having access to the bank, the bank would not transfer the money without me being there to sign the original documents

Please let me know when you receive the funds.

Thanks

D [REDACTED]

Her amount of investment is 100,000.00 and she deposited on 11/16/2015. They will pay her a 100% return in 18mos.

I am attaching her contract as well. Jose needs this by tomorrow.

Did you get my list of November/December clients that are up in NDIC? Just want to make sure.

[REDACTED] called and changed his method of payment again! He would like Fed Ex.

Please confirm receipt of this and let me know if you need anything else from me.

Thanks,

Raeneal

From: fx@xe.com <fx@xe.com>

Sent: November 16, 2015 4:01 PM

— Attachments: —

EFDG Rough Parcel Contract [REDACTED].pdf

88.5 KB