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Attorneys for Receiver for Defendants
AEQUITAS MANAGEMENT, LLC; AEQUITAS HOLDINGS,
LLC; AEQUITAS COMMERCIAL FINANCE, LLC; AEQUITAS
CAPITAL MANAGEMENT, INC.; AEQUITAS INVESTMENT
MANAGEMENT, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

**AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,
LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK; BRIAN A.
OLIVER; and N. SCOTT GILLIS,**

Defendants.

No. 3:16-cv-00438-JR

AMENDED NOTICE OF INTENT TO SERVE
SUBPOENA *DUCES TECUM*



YOU ARE HEREBY NOTIFIED that, pursuant to Federal Rule of Civil Procedure 45, the attorneys for the Receiver and Receivership Entity intend to have issued for service the Subpoena *Duces Tecum* attached as Exhibit 1 on or after April 15, 2022.¹

Dated this 13th day of April, 2022.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

By: /s/ Anna Helton
Troy Greenfield, OSB #892534
Lawrence R. Ream *pro hac vice*
Anna Helton, OSB #054424
Of Attorneys for the Receiver and
Receivership Entity

¹ The subpoena *duces tecum* contains potentially confidential information, which has been redacted partially in this notice.

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SUBPOENA DUCES TECUM

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TO: M.U.F.G. Union Bank, N.A.
900 SW 5TH Ave, Suite 200
Portland, OR 97204

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

SEE ENCLOSED *EXHIBIT A*

| | |
|---|---|
| Place: Schwabe Williamson & Wyatt 1211 SW Fifth Avenue, Suite 1900 Portland, OR 97204 | Date and Time: May 2, 2022, at 5:00 PDT |
|---|---|

The name, address, e-mail, and telephone number of the attorney representing Receiver for Defendants Aequitas Management, LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance, LLC, Aequitas Capital Management, Inc, and Aequitas Investment Management, LLC is:

Troy Greenfield, Schwabe Williamson & Wyatt, PC, 1420 Fifth Avenue, Suite 3400, Seattle, WA 98101-4010; 206-622-1711; tgreenfield@schwabe.com

Notice to the person who issues or requests this subpoena

If this subpoena commands production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:16-cv-00438-JR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Red. R. Civ. P. 45)

I received this subpoena for *(name of individual and title, if any)* _____
_____ on _____.

I served the subpoena by delivering a copy to the named person as follows:

_____ on _____; or

I returned the subpoena unexecuted because: _____

_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of \$_____.

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/01/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results

from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

INSTRUCTIONS AND DEFINITIONS

1. The terms “document” or “documents” are used in their broadest sense under FRCP 26, and includes both hard copy documents and electronically stored information (“ESI”).

“Document” or “documents” mean the original in its native format, or a copy when the original is not available, and each non-identical copy, including those which are non-identical by reason of notations or markings of: papers, tapes, discs, or other substances on which communications, data, or information is recorded or stored, whether made by manual, mechanical, photographic, or electronic process. This definition includes all drafts or superseded revisions of each document. As used herein, “document(s)” includes, but is not limited to: books, pamphlets, periodicals, letters, reports, memoranda, handwritten notes, notations, messages, telegrams, cables, records, drafts, diaries, studies, analyses, summaries, magazines, circulars, bulletins, instructions, minutes, photographs, purchase orders, bills, checks, tabulations, desk or pocket calendars, charge slips, questionnaires, surveys, drawings, sketches, working papers, charts, graphs, indexes, taped correspondence, records of purchase of sale, contracts, agreements, leases, invoices, expense records, trip reports, releases, appraisals, valuations, estimates, opinions, financial statements, accounting records, income statements, electronic or other transcriptions or taping of telephone or personal conversations or conferences or any and all other written, printed, typed, punched, taped, filed or graphic matter or tangible things, of whatever description, however produced or reproduced (including computer stores or generated data), and shall include all attachments and enclosures to any requested item, which shall not be separated from the item to which they are attached or enclosed.

DOCUMENTS REQUESTED

REQUEST NO. 1: Documents sufficient to identify each transfer from Aequitas Commercial Finance, LLC, or any other Aequitas entity, into Union Bank account number [redacted] 6270, from July 1, 2014, through March 31, 2015.

REQUEST NO. 2: Documents sufficient to identify the following for each transfer from Union Bank account number [redacted] 6270, from July 1, 2014:

- a. Name of the receiving financial institution;
- b. Name of the holder of the receiving account;
- c. Tax identification number of the holder of the receiving account (if available);
- d. Numerical identifier of the receiving account;
- e. Amount of the transfer; and
- f. Date of the transfer.

REQUEST NO. 3: Documents containing the following for all holders of Union Bank account number [redacted] 6270, from July 1, 2014:

- a. Name;
- b. Tax identification number; and
- c. Designated contact(s) and authorized signer(s)

REQUEST NO. 4: If Union Bank account number [redacted] 6270 was closed, documents sufficient to identify the date of closure.

Dated this ____ day of April, 2022.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

By:

Troy Greenfield, OSB #892534
Lawrence R. Ream *pro hac vice*
Anna Helton, OSB #054424
Of Attorneys for the Receiver and
Receivership Entity