

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Hearing: TBD

Obj. Deadline: February 6, 2023 at 4 p.m. (ET)

**MEDLEY LLC LIQUIDATING TRUST'S MOTION PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 60(b) TO VACATE (I) THE  
ORDER RETAINING EVERSHEDES SUTHERLAND (US) LLP, AND (II)  
THAT PORTION OF THE AMENDED OMNIBUS ORDER AWARDING  
THE FINAL FEE APPLICATION TO EVERSHEDES SUTHERLAND (US) LLP**

The Medley LLC Liquidating Trust (the "Liquidating Trust"), established by the confirmed plan (the "Plan")<sup>2</sup> in this case of the above-captioned debtor (the "Debtor"), by and through its undersigned counsel, hereby moves (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A**, pursuant to Federal Rule of Civil Procedure 60(b), vacating (i) the Order Retaining Eversheds Sutherland (US) LLP ("Eversheds") as Special Counsel to the Debtor (the "Retention Order"), and (ii) that portion of the Amended Omnibus Order Awarding the Final Fee Application to Eversheds (the "Amended Omnibus Final Fee Order").<sup>3</sup> In support of the Motion, the Liquidating Trust respectfully represents as follows:

**PRELIMINARY STATEMENT**

1. In connection with Eversheds' retention as special counsel to the Debtor, Eversheds misrepresented to the Court the amount of money it received for prepetition services it provided

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<sup>1</sup> The Debtor's current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

<sup>2</sup> Docket No. 445-1.

<sup>3</sup> The Motion does not seek to modify any other administrative claim that was awarded pursuant to the Amended Omnibus Final Fee Order.



to the Debtor, and, more importantly, the fact that Eversheds received payments directly from the Debtor during the 90-day period prior to the Petition Date (as defined below). As part of Eversheds' retention application, Eversheds was required to file a verified statement, pursuant to Bankruptcy Rules 2014 and 2016, detailing its connections with the Debtor, which include: (i) any payments received by Eversheds for services rendered to the Debtor, and (ii) the source of such payments. Eversheds violated both disclosure requirements.

2. Eversheds' verified statement disclosed that it received \$1,039,500.81 during the 90-day period prior to the Petition Date from certain insurance companies for services it rendered on behalf of the Debtor. In reality, however, Eversheds received \$2,015,986.53 directly from the Debtor during the same period.

3. In light of these misrepresentations, the Liquidating Trust requests that the Court vacate the Retention Order<sup>4</sup> and Amended Omnibus Final Fee Order<sup>5</sup> (collectively, the "Challenged Orders"). Courts have revoked orders under Bankruptcy Rule 9024, which incorporates Federal Rule of Civil Procedure 60(b),<sup>6</sup> where, as here, a professional violated the disclosure requirements under the Bankruptcy Rules by failing to disclose all of its connections with the debtor, including the payments it received from the debtor prior to the bankruptcy filing.

4. Vacating the Challenged Orders is necessary because Eversheds' false statements were material, misled the Court and prevented parties in interest from contesting Eversheds' retention application and final fee application.

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<sup>4</sup> Docket No. 167.

<sup>5</sup> Docket No. 569.

<sup>6</sup> Federal Rule of Civil Procedure 60(b) provides, in relevant part, that "[o]n motion . . . the court may relieve a party . . . from a final . . . order . . . for the following reasons: . . . misrepresentation, or other misconduct of an adverse party . . . or . . . any other reason justifying relief from the operation of the judgment." Fed. R. Civ. P. 60(b).

## **JURISDICTION AND VENUE**

5. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief requested herein is Federal Rule of Civil Procedure 60(b), made applicable to bankruptcy cases by Bankruptcy Rule 9024.

6. Pursuant to 9013(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Liquidating Trust hereby consents to the entry of a final order by the Court in connection with the Motion, if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

## **BACKGROUND**

### **I. Historical Background**

7. The Debtor was a direct subsidiary of Medley Management, Inc. (“Medley Management”).<sup>7</sup> On September 17, 2019, the Securities and Exchange Commission’s Division of Enforcement (the “SEC”) informed Medley Management that it was conducting an informal inquiry, and requested the production and preservation of certain documents and records.<sup>8</sup> By letter dated December 18, 2019, the SEC advised Medley Management that a formal order of private investigation had been issued converting the informal inquiry into a formal investigation.<sup>9</sup>

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<sup>7</sup> Plan at Article II.A.

<sup>8</sup> Plan at Article II.I.

<sup>9</sup> *Id.*

In connection with this investigation, Medley Management and the Debtor retained Eversheds as counsel.<sup>10</sup>

8. Medley Management requested coverage from Berkshire Hathaway Specialty Insurance Company (“Berkshire”) under the Executive First Directors and Officers Liability Policy No. 47-EPF-301833-03 for the fees, costs and expenses incurred in connection with the SEC investigation.<sup>11</sup> On January 4, 2021, Berkshire and Medley Management entered into an interim funding agreement (the “Funding Agreement”) whereby Berkshire agreed to advance reasonable fees, costs and expenses in connection with the SEC investigation.<sup>12</sup> The Funding Agreement provided that Berkshire would advance Medley Management \$2,338,772.03 on or before January 20, 2021 (the “Advance”).<sup>13</sup>

9. At the time the Funding Agreement was entered, Eversheds had issued invoices in the amount of \$3,482,105.83 through October 20, 2020.<sup>14</sup> On January 14, 2021, Berkshire transferred the Advance to Medley Management.<sup>15</sup>

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<sup>10</sup> Docket No. 119 at ¶ 8.

<sup>11</sup> See Exhibit B at 1-2.

<sup>12</sup> Exhibit B at 7.

<sup>13</sup> Exhibit B at 3.

<sup>14</sup> *Id.*

<sup>15</sup> Exhibit C at 1.

10. From December 7, 2020 to March 6, 2021 (the “Preference Period”), the Debtor paid \$2,015,986.53 (the “Preference Payments”) to Eversheds.<sup>16</sup>

<u>Payment Date</u>	<u>Payment Type</u>	<u>Payment Amount</u>
12/10/2020	Wire	\$976,485.72
12/23/2020	Wire	\$200,000.00
1/26/2021	EFT	\$794,939.34
3/1/2021	Wire	\$26,181.47
3/2/2021	EFT	\$18,380.00
<b>Total</b>		<b>\$2,015,986.53</b>

## II. The Chapter 11 Case

11. On March 7, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Court.

12. On April 6, 2021, the Debtor filed an application to retain Eversheds as special counsel (the “Retention Application”) <sup>17</sup> pursuant to section 328(a) <sup>18</sup> and 327(e) <sup>19</sup> of the Bankruptcy Code. In support of the Retention Application, the Debtor submitted the declaration of Mark D. Sherrill (the “Declaration”), a partner at Eversheds, which purported to disclose all of Eversheds’ connections with the Debtor as required by Bankruptcy Rule 2014. <sup>20</sup> The Retention Application and Declaration disclosed that

<sup>16</sup> Exhibit D at 4, 8, 12.

<sup>17</sup> Docket No. 87.

<sup>18</sup> Section 328(a) of the Bankruptcy Code provides, in relevant part, that the debtor “may employ . . . a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment.” 11 U.S.C. § 328(a).

<sup>19</sup> Section 327(e) of the Bankruptcy Code provides, in relevant part, that the debtor “may employ, for a specified special purpose . . . an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.” 11 U.S.C. § 327(e).

<sup>20</sup> Federal Rule of Bankruptcy Procedure 2014(a) provides, in relevant part, that the “application shall be accompanied by a verified statement of the person to be employed setting forth the person’s connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.” F. R. Bankr. P. 2014(a).

[i]n the prepetition period, Eversheds was compensated for its work within the Scope of Services by two insurers. Initially, Eversheds was paid by Berkshire Hathaway pursuant to a policy issued to Medley Management Inc., an affiliate of the Debtor. More recently, Eversheds has been paid by Starr Indemnity and Liability Company pursuant to a separate policy.<sup>21</sup>

13. The Declaration further stated that “[d]uring the 90-day period prior to the Debtor’s bankruptcy filing, Eversheds received a total of \$1,039,500.81 on account of work performed for the Debtor.”<sup>22</sup> The Retention Application and Declaration further asserted that “Eversheds understands and acknowledges that under section 329 of the Bankruptcy Code, it must disclose any payments made by the Insurer, even if it is not paid directly by the estate.”<sup>23</sup> Despite this acknowledgement and Eversheds’ obligation under Bankruptcy Rule 2014, Eversheds failed to disclose the Preference Payments that it received from the Debtor.

14. On April 26, 2021, Eversheds, prior to the entry of a retention order, filed a Supplemental Declaration of Mark Sherrill (the “Supplemental Declaration”).<sup>24</sup> The Supplemental Declaration disclosed that Eversheds was representing the “Medley complex (Medley Management Inc., Medley LLC, Medley Capital LLC and several current and former officers, directors and employees) in the SEC’s enforcement investigation.”<sup>25</sup> The Supplemental Declaration also stated that “[i]f any new material, relevant facts, or relationships are discovered or arise, Eversheds will promptly file another supplemental declaration pursuant to Bankruptcy

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<sup>21</sup> Retention Application at ¶ 10 and Declaration at ¶ 9.

<sup>22</sup> Declaration at ¶ 14.

<sup>23</sup> Retention Application at ¶ 10 and Declaration at ¶ 9.

<sup>24</sup> Docket. No. 119.

<sup>25</sup> Supplemental Declaration at ¶ 8.

Rule 2014.”<sup>26</sup> Despite re-affirming its disclosure obligations under Bankruptcy Rule 2014, Eversheds did not disclose the Preference Payments. On May 17, 2021, the Court entered the Retention Order pursuant to section 327(e) of the Bankruptcy Code.

15. After the Retention Order was entered, Eversheds filed a Second Supplemental Declaration of Mark Sherrill (the “Second Supplement”).<sup>27</sup> The Second Supplement stated that the Debtor requested Eversheds to perform certain regulatory filings, and that Eversheds would charge the estate for such work. Again, the Second Supplement did not disclose the Preference Payments.

16. On October 18, 2021, the Court entered an Amended Order<sup>28</sup> confirming the Plan, which went effective on the same day (the “Effective Date”).<sup>29</sup> Among other things, the Plan provided for the creation of the Liquidating Trust to liquidate remaining estate assets and pursue potential claims and causes of action.<sup>30</sup> All estate assets, including avoidance actions, were transferred to the Liquidating Trust on the Effective Date.<sup>31</sup>

17. On December 1, 2021, Eversheds filed its final fee application (the “Final Fee Application”).<sup>32</sup> The Final Fee Application, like the Retention Application, stated that Eversheds received some prepetition payments from insurance carriers.<sup>33</sup> The Liquidating Trust relied on the disclosures in the Declaration when assessing the appropriateness of the Final Fee Application. In connection with the Final Fee Application, Eversheds filed a supplemental declaration (the “Final

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<sup>26</sup> Supplemental Declaration at ¶ 11.

<sup>27</sup> Docket No. 280.

<sup>28</sup> Docket No. 445.

<sup>29</sup> Docket No. 449.

<sup>30</sup> Plan at Article VII.

<sup>31</sup> *Id.* at Article VII.E.

<sup>32</sup> Docket No. 515.

<sup>33</sup> *See id.* at ¶ 17.

Fee Application Declaration”).<sup>34</sup> The Final Fee Application Declaration re-affirmed Eversheds duty under section 329(a) of the Bankruptcy Code to disclose payments it received, but again failed to disclose the Preference Payments.

18. On January 26, 2022, the Bankruptcy Court entered the Amended Omnibus Final Fee Order awarding the Final Fee Applications. The Amended Omnibus Final Fee Order awarded Eversheds an administrative claim in the amount \$2,080,055.19.

### **LEGAL ARGUMENT**

#### **I. Eversheds Violated Bankruptcy Rules 2014 and 2016**

19. Bankruptcy Rule 2014(a) requires estate professionals to disclose all their “connections with the debtor,” including payments received by the debtor prior to the filing, as a part of their application to employ.<sup>35</sup> Moreover, Bankruptcy Rule 2016 requires that “[e]very attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief . . . the statement required by section 329 of the Code.”<sup>36</sup> Section 329 of the Bankruptcy Code, in turn, provides that

Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.<sup>37</sup>

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<sup>34</sup> Docket No. 561 at ¶ 12.

<sup>35</sup> Fed. R. Bankr. P. 2014(a); *see In re Bartmann*, 320 B.R. 725, 744 (Bankr. N.D. Okla. 2004).

<sup>36</sup> Fed. R. Bankr. P. 2016(b).

<sup>37</sup> 11 U.S.C. § 329(a).



20. The Declaration filed with the Retention Application attested that Eversheds received \$1,039,500.81 for services provided to the Debtor prepetition. It did not disclose any of the Preference Payments. In addition, both the Declaration and Final Fee Application stated that Eversheds received payments prior to the Petition Date from insurance carriers – not the Debtor.

21. All of these statements were false. Eversheds received approximately twice the amount from the Debtor than what was disclosed, and the Debtor, not the insurers, were the source of these payments.

## **II. Eversheds’ Misrepresentation and Misconduct Warrants Vacating the Challenged Orders Under Federal Rule 60(b)**

22. Rule 60 of the Federal Rules of Civil Procedure governs requests for relief from an order. Bankruptcy Rule 9024, which incorporates Federal Rule of Civil Procedure 60(b), provides, in relevant part:

On motion and upon such terms as are just, the court may relieve a party . . . from a final judgement . . . [or] order . . . for the following reasons: . . . misrepresentation, or other misconduct by an opposing party . . . or . . . any other reason justifying relief from the operation of the judgment.<sup>38</sup>

### **A. The Court Should Vacate the Challenged Orders Under Federal Rule 60(b)(6)**

23. To vacate an order under Federal Rule 60(b)(6), the movant must show “some ‘other reason’ justifying relief outside of the earlier clauses of the Rule, or, if the reasons for seeking relief could have been considered in an earlier motion under another subsection of the rule, [the movant] must show ‘extraordinary circumstances’ suggesting the party is faultless in the delay.”<sup>39</sup> Applying this standard, the Court should vacate the Challenged Orders.

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<sup>38</sup> Fed. R. Civ. P. 60(b).

<sup>39</sup> *In re Benjamin’s–Arnolds, Inc.*, No. 4–90–6127, 1997 WL 86463, at \*10 (Bankr. D. Minn. Feb. 28, 1997).

24. Bankruptcy Courts have granted relief under rule Federal Rule 60(b)(6) for disclosure violations similar to the ones committed by Eversheds. In *In re Etoys, Inc.*, for example, Judge Walrath found a law firm had a conflict of interest by representing both the debtors and a third party against whom the debtors had claims.<sup>40</sup> The court reviewed Bankruptcy Rule 2014(a) and noted that the law firm's failure to disclose conflicts of interest constituted "a fraud on the Court," which would justify applying Bankruptcy Rule 60(b)(6).<sup>41</sup> "To hold otherwise would only serve to penalize the [movant] for delay that was beyond [the movant's] control and to reward conflicted attorneys for failing to disclose their conflicts beyond the one-year period."<sup>42</sup>

25. While the facts in *In re Etoys* are different than the facts here, the reasoning of *In re Etoys* is applicable to provide a basis for the Court to grant relief under 60(b)(6). It was Eversheds' "responsibility, not of the court, to make sure that all relevant connections [were] brought to light" in the Retention Application and in the Final Fee Application as well as in the accompanying declarations.<sup>43</sup> The Retention Application, Declarations and Final Fee Application each falsely asserted that Eversheds only received payments during the Preference Period from insurance carriers as opposed to the Debtor, and those pleadings also understated the amount of such payments by approximately half.

26. These disclosure violations are material. Eversheds' failure to disclose the source and correct amount of the prepetition transfers provided the Court, Official Committee of Unsecured Creditors (the "Committee"), the U.S. Trustee (the "UST"), the SEC and other parties

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<sup>40</sup> *In re Etoys, Inc.*, 331 B.R. 176, 188 (Bankr. Del. 2005).

<sup>41</sup> *Id.* at 188.

<sup>42</sup> *See id.* (citing *Benjamin's-Arnolds*, 1997 WL 86463, at \*10).

<sup>43</sup> *In re Etoys, Inc.*, 331 B.R. 176, 196 (Bankr. Del. 2005).

in interest with incomplete information concerning the propriety of Eversheds' employment. For example, being provided with an accurate amount of fees incurred and paid to Eversheds prior to its retention, would have been particularly relevant here because Eversheds is one of the highest paid estate professionals in a case with limited resources to pay professionals. Other options may have been explored. Further, the Liquidating Trust, SEC and UST did not have sufficient information to evaluate whether it had a basis to object to the Final Fee Application as a result of Eversheds' misstatements and violations of Bankruptcy Rules 2014 and 2016.

27. Courts have disgorged fees and expenses for disclosure violations under section 329 of the Bankruptcy Code.<sup>44</sup> The Ninth Circuit recognized that "failure to comply with the disclosure rules is a sanctionable violation, even if proper disclosure would have shown that the attorney had not actually violated any Bankruptcy Code provision or any Bankruptcy Rule."<sup>45</sup> As such, Eversheds' failure to properly disclose to the Court the correct amount and source of the prepetition payments it received from the Debtor warrant vacating the Challenged Orders.<sup>46</sup>

**B. Eversheds' Misrepresentation and Misconduct Warrants Vacating the Amended Omnibus Final Fee Order Under Federal Rule 60(b)(3)**

28. To establish relief under Federal Rule 60(b)(3), the movant must establish that the adverse party engaged in a misrepresentation or other misconduct, and that this conduct "prevented

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<sup>44</sup> *In re Kisseberth*, 273 F.3d 714, 720 (6th Cir. 2001), *sub nom. Henderson v. Kisseberth*, 24 F. App'x 539 (6th Cir. 2002) (finding disgorgement is within the court's discretion in light of the § 329 and Bankruptcy Rule 2016(b) disclosure requirements); *Matter of Prudhomme*, 43 F.3d 1000, 1003 (5th Cir. 1995) (concluding that a bankruptcy court may order disgorgement as a sanction against the debtor's counsel for failing to disclose fees); *In re Park-Helena Corp.*, 63 F.3d 877, 882 (9th Cir. 1995) ("Even a negligent or inadvertent failure to disclose fully relevant information [in a Rule 2016 statement] may result in a denial of all requested fees.").

<sup>45</sup> *Id.* at 882.

<sup>46</sup> *In re Southmark Corp.*, 181 B.R. 291, 296 (Bankr. N.D. Tex. 1995) ("The professional person must disclose and continue to disclose all connections that may affect employment eligibility. Failure to do so constitutes a basis for relief from the compensation order under Rule 60(b)(6).")

the moving party from fully and fairly presenting his case.”<sup>47</sup> “[R]elief under Rule 60(b)(3) may be warranted . . . if such evidence ‘would have made a difference’ in” the moving party’s objection.<sup>48</sup> Misrepresentation, as used in Federal Rule 60(b)(3), also includes unintentional representations.<sup>49</sup> Similarly, misconduct under Federal Rule 60(b)(3), “does not demand proof of nefarious intent or purpose as a prerequisite to redress . . . . The term can cover even accidental omissions.”<sup>50</sup> The movant must also demonstrate that the misrepresentation or misconduct was material.<sup>51</sup>

29. Eversheds’ false statements in the Retention Application, Declarations and Final Fee Application constitute both a misrepresentation and misconduct under Federal Rule 60(b)(3) because they failed to disclose the amount and source of the prepetition payments Eversheds received from the Debtor. These false statements were material because they prevented the Court from assessing whether the Final Fee Application was appropriate given the disclosure violations. Similarly, the UST, SEC and the Liquidating Trust were unable to evaluate whether it had a valid basis to object to the Final Fee Application, and they also did not have the opportunity to assert a possible disgorgement action under Section 329(a) of the Bankruptcy Code. Accordingly, Eversheds’ false statements warrant vacating the Amended Omnibus Final Fee Order.

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<sup>47</sup> *Stridiron v. Stridiron*, 698 F.2d 204, 207 (3d Cir. 1983).

<sup>48</sup> *See Floorgraphics Inc. v. News Am. Mktg. In-Store Servs., Inc.*, 434 F. App’x 109, 111 (3d Cir. 2011).

<sup>49</sup> *Lonsdorf v. Seefeldt*, 47 F.3d 893, 895 (7th Cir. 1995) (“Fed. R. Civ. P. 60(b)(3) applies to both intentional and unintentional misrepresentations”).

<sup>50</sup> *Churchill Downs, Inc. v. NLR Entm’t, LLC*, 2018 WL 4589992 (D.N.J. Sept. 25, 2018).

<sup>51</sup> *Linear Tech. Corp. v. Monolithic Power Sys., Inc.*, No. CIV.A. 06-476 GMS, 2009 WL 3805567, at \*3 (D. Del. Nov. 12, 2009).

**C. The Motion Is Timely**

30. As set forth in Federal Rule of Civil Procedure 60(c), a motion under Federal Rule of Civil Procedure 60(b) must be made within a reasonable time, and if predicated upon subsections (1), (2), and (3), no more than a year after the entry of the judgment or order.<sup>52</sup>

31. The Motion has been made within the one-year period following entry of the Amended Omnibus Final Fee Order. With respect to the Retention Order, the Motion is also timely because the one-year period does not apply to orders that are revoked under Federal Rule 60(b)(6).

32. In addition, Bankruptcy Rule 9024 provides that “an order allowing or disallowing a claim against the estate entered without contest is not subject to the one year limitation prescribed in Rule 60(c).”<sup>53</sup> Accordingly, because the Amended Omnibus Final Fee Order allowed “a claim against the estate” — an administrative expense claim for attorney fees and costs — and because there was no opposition at the hearing on the Amended Omnibus Final Fee Order, there is no time limitation to seek to vacate this order on any of the Federal Rule 60(b) grounds.

**CONCLUSION**

**WHEREFORE**, the Liquidating Trust respectfully requests that the Court grant the Motion, and provide for such other and further relief as the Court deems appropriate.

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<sup>52</sup> Fed. R. Civ. P. 60(b).

<sup>53</sup> Fed. R. Bankr. P. 9024.

Dated: January 23, 2023  
Wilmington, Delaware

/s/ Christopher M. Samis

Christopher M. Samis (No. 4909)

Sameen Rizvi (No. 6902)

**POTTER ANDERSON & CORROON LLP**

1313 N. Market Street, 6th Floor

Wilmington, Delaware 19801

Tel: (302) 984-6000

Fax: (302) 658-1192

Email: csamis@potteranderson.com

srizvi@potteranderson.com

-and-

James S. Carr (admitted *pro hac vice*)

Whitney Smith (admitted *pro hac vice*)

Sean T. Wilson (admitted *pro hac vice*)

**KELLEY DRYE & WARREN LLP**

3 World Trade Center

175 Greenwich Street

New York, New York 10007

Tel: (212) 808-7800

Fax: (212) 808-7897

Email: jcarr@kelleydrye.com

wsmith@kelleydrye.com

swilson@kelleydrye.com

*Counsel to the Liquidating Trust*

**EXHIBIT A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Re: D.I. \_\_\_\_\_

**ORDER GRANTING MEDLEY LLC LIQUIDATING TRUST'S  
MOTION PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 60(b) TO  
VACATE (I) THE ORDER RETAINING EVERSHEDES SUTHERLAND (US) LLP,  
AND (II) THAT PORTION OF THE AMENDED OMNIBUS ORDER AWARDED  
THE FINAL FEE APPLICATION TO EVERSHEDES SUTHERLAND (US) LLP**

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Upon consideration of Medley LLC Liquidating Trust's motion (the "Motion");<sup>2</sup> and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and venue being proper before this Court; consideration of the Motion and the relief requested being a core proceeding pursuant to 28 U.S.C. § 157(b); due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; this Court having found and determined that the relief sought in the Motion is in the best interests of the Liquidating Trust, its beneficiaries, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is GRANTED, as set forth herein.
2. The Retention Order shall be vacated; and
3. The Amended Omnibus Final Fee Order is vacated as to Eversheds;

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<sup>1</sup> The Debtor's current mailing address is Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

<sup>2</sup> Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Motion.



4. Other than Eversheds, nothing in this Order shall modify any other estate professionals' administrative claim as awarded in the Amended Omnibus Final Fee Order; and

5. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

**Exhibit B**

**INTERIM FUNDING AGREEMENT**

This Interim Funding Agreement (“Agreement”) is made and entered into this 4<sup>th</sup> day of January 2021, by and between (1) Berkshire Hathaway Specialty Insurance Company (“Berkshire”); and (2) Medley Management Inc. (“Medley”). Berkshire and Medley are referred to collectively herein as the “Parties” and each separately as a “Party.”

**RECITALS**

**WHEREAS**, Berkshire issued Executive First Directors and Officers Liability Policy No. 47-EPF-301833-03 (the “Policy”) to Medley for the period September 23, 2017 to September 23, 2018, which was extended to April 30, 2019 and later converted to run-off effective on April 30, 2019;

**WHEREAS**, subject to all of its terms and conditions, the Policy provides a \$5 million maximum aggregate limit of liability, subject to satisfaction by Medley of a \$1.5 million retention each Claim;

**WHEREAS**, by letters dated September 17, 2019, the United States Securities and Exchange Commission (“SEC”) requested the preservation and production of documents relating to an inquiry (the “September 17, 2019 Letters”);

**WHEREAS**, on November 26, 2019, the SEC issued a Formal Order of Investigation in the matter captioned, *In the Matter of Medley Capital Corporation*, MNY-10045 (the “SEC Investigation”);

**WHEREAS**, the SEC has issued subpoenas and may issue additional subpoenas in connection with the SEC Investigation;

**WHEREAS**, Medley has retained Eversheds Sutherland (US) LLP, Fredericks Law and Goodwin Proctor LLP as counsel for the SEC Investigation, and Eversheds Sutherland (US) LLP has retained Ankura Consulting Group, LLC as a consultant for the SEC Investigation;

**WHEREAS**, Medley has requested coverage under the Policy for fees, costs and expenses incurred in connection with the September 17, 2019 Letters and the SEC Investigation;

**WHEREAS**, Berkshire has denied coverage under the Policy for the fees, costs and expenses incurred to date by Medley in response to the September 17, 2019 Letters and the SEC Investigation;

**WHEREAS**, Medley disputes Berkshire's denial of coverage for the fees, costs and expenses incurred to date in response to the September 17, 2019 Letters and the SEC Investigation;

**WHEREAS**, the Parties wish to address the interim payment of fees, costs and expenses incurred by Medley in response to the September 17, 2019 Letters and the SEC Investigation, without prejudice to Berkshire's position that some or all of such amounts are not covered by the Policy and without prejudice to Medley's position that all amounts are covered by the Policy;

**WHEREAS**, Berkshire has agreed to advance reasonable fees, costs and expenses incurred in response to the September 17, 2019 Letters and the SEC Investigation subject to the preservation of its right to seek the repayment by Medley and/or other Insureds (severally according to their interests) of some or all of the amounts advanced by Berkshire on the ground that the Policy does not provide coverage for such amounts;

**WHEREAS**, Medley agrees that Berkshire's advancement of amounts pursuant to this Agreement is subject to Berkshire's right to seek repayment, that such advancement is not a

voluntary payment and that it will not dispute that Berkshire retains the right to seek repayment of all amounts advanced on the basis that such amounts are not covered by the Policy;

**NOW THEREFORE**, in consideration of the promises, covenants, agreements and other undertakings herein, and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Berkshire and Medley agree as follows:

1. **Advancement of Fees, Costs and Expenses**

Berkshire will advance to Medley reasonable fees, costs and expenses incurred by Medley and/or other persons and entities who are Insureds in response to the September 17, 2019 Letters and the SEC Investigation and that are in excess of the Policy's \$1.5 million retention obligation; provided, however, that amounts advanced shall not include payment for any fees, costs or expenses incurred in connection with legal advice or representation on insurance coverage issues or any other fees, costs or expenses not properly or reasonably charged to the September 17, 2019 Letters or the SEC Investigation. Except as stated otherwise below or as may be directed by Medley, Berkshire will advance payments directly to the law firms and other service providers. Berkshire's advancements will be made as follows:

- (a) Berkshire will advance the sum of \$2,338,772.03 to Medley on or before January 20, 2021 in connection with the following invoices: (i) Evershed Sutherland's invoices issued between October 21, 2019 and October 20, 2020, totaling \$3,482,105.83; (ii) Fredericks Law's invoices dated September 9, 2020 and September 10, 2020, totaling \$13,374.95; (iii) Goodwin Proctor's invoices dated January 6, 2020, February 21, 2020 and February 24, 2020, totaling \$248,530.85; and (iv) Ankura's invoices dated February 21, 2020, March 20, 2020, April 8, 2020 and May 11, 2020, totaling \$94,760.40.

- (b) Berkshire will advance payments for invoices received after December 20, 2020 on a current basis, and not later than sixty (60) days after its receipt of itemized invoices. Amounts advanced by Berkshire shall not include overhead expenses of the law firms or vendors.
- (c) Any increase in the hourly billing rates by the law firms shall not be made except with the advance consent of Berkshire, which shall not be unreasonably withheld or delayed. The retention any law firms other than Eversheds Sutherland, Fredericks Law and Goodwin Proctor, and the retention of experts, must be approved in advance by Berkshire, and such approval shall not be unreasonably withheld or delayed.

2. **Submission and Review of Invoices**

Medley shall, on a monthly basis, submit all invoices to counsel for Berkshire, Clyde & Co US LLP. Each law firm and expert invoice shall include task billing by each timekeeper on a daily basis, show the hourly billing rates being applied for each timekeeper, and provide backup documentation for disbursements. Berkshire shall have the right to make reasonable inquiries regarding all invoices submitted for advancement. In the event a submitted invoice or any part thereof is not approved for advancement by Berkshire, the Parties agree to use their best efforts and good faith to resolve any issues raised by such invoice. In the event an agreement cannot be reached, Berkshire shall advance those items submitted that are not in dispute, and the Parties will reserve all rights with regard to the items not advanced.

3. **Payments Credited Against Policy Limits**

Medley acknowledges and agrees that advancements by Berkshire are being made pursuant to the Policy and are properly credited by Berkshire against the Policy's \$5 million limit of liability and shall be applied toward exhaustion of such Policy limits unless and until

repayment to Berkshire actually is made of any amount previously advanced. In the event of any repayment of advanced amounts to Berkshire, the Policy's limit of liability shall be reinstated in the amount of such repayment.

4. **Berkshire's Right to Repayment**

The Parties agree that Berkshire's advancement of fees, costs and expenses expressly is subject to its right to seek repayment from Medley and/or other Insureds (severally according to their interests) on the basis that the amounts advanced are finally established not to be covered by the Policy. Medley, on behalf of itself and all other Insureds, acknowledges and agrees that Berkshire's advancement is not a voluntary payment and that the Insureds will not dispute that Berkshire retains the right to seek repayment of all amounts advanced, provided, however, that Medley retains the right to assert that any amounts for which Berkshire seeks repayment are covered under the Policy. Berkshire may make one or more written demands on Medley and/or other Insureds for repayment of all or part of amounts that have been advanced. In the event repayment is not made within thirty (30) days of a demand, the Parties will comply with the Dispute Resolution Process set forth at Section XVI of the Policy. In the event of litigation or other dispute resolution proceeding, this Agreement and/or the fact that Berkshire advanced amounts for the Insureds' fees, costs and expenses shall not be admissible in evidence regarding whether such amounts are covered by the Policy.

5. **Reservation of Rights**

The Parties expressly reserve all rights they may have to make any contention whatsoever concerning the Policy, its coverage or scope, and all other matters in connection with the Policy. Nothing in this Agreement, including any advancement made pursuant to this Agreement, will

constitute a waiver or estoppel, either express or implied, of any of the Parties' rights under the Policy, and all of the Parties' rights under the Policy and applicable law expressly are reserved.

6. **Termination**

Berkshire may terminate any and all advancements under this Agreement thirty (30) days after written notice to Medley, which notice shall state the reason for the termination; provided, however, that Berkshire's agreement to advance fees, costs and expenses shall terminate immediately in the event that the Policy's \$5,000,000 limit of liability is exhausted as a result of advancements paid by it.

7. **Construction of Agreement**

This Agreement is the result of negotiations between and among the Parties. None of the Parties has been coerced or induced to enter into this Agreement by any improper action of any other Party. This Agreement will not be construed against any Party on the ground that counsel for that Party drafted the Agreement or any of its provisions, and it will not be construed against Berkshire on the basis that it is an insurance company. The terms "Claim" and "Insured(s)" as used herein shall have the same meaning ascribed to it by the Policy.

8. **Binding Agreement**

This Agreement is binding on the Parties and their respective successors and assigns. With respect to the Insureds, this Agreement is binding on all persons and entities who are Insureds under the Policy. This Agreement is not assignable by the Insureds without Berkshire's written consent, which shall not be unreasonably withheld or delayed.

9. **Authorization**

Each Party represents that this Agreement is made and executed by an individual duly authorized to execute this Agreement on behalf of that Party, that the appropriate corporate



resolutions or other consents have been passed and/or obtained, if necessary, and that this Agreement will be binding on the Party on whose behalf it is executed.

10. Execution In Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument, and any of the Parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, each of the undersigned Parties has caused this Agreement to be duly executed on its behalf.

Dated: January \_\_, 2021

BERKSHIRE HATHAWAY SPECIALTY  
INSURANCE COMPANY

By: David Crowe

Name: David Crowe

Title: Chief Claims Officer, BHSI

Dated: January 4<sup>th</sup>, 2021

MEDLEY MANAGEMENT, INC.

By: [Signature]

Name: Richard T Allorto JR

Title: Chief Financial Officer

**Exhibit C**

System: 2/15/2021 11:13:16 AM  
 User Date: 2/15/2021

Medley Capital  
 CLEARED TRANSACTIONS JOURNAL  
 Bank Reconciliation

Page: 1  
 User ID: vhuynh

Ranges: From: To:  
 Company

Audit Trail Code: CMADJ00001673  
 Company: 010  
 Checkbook ID: 0100PR  
 Description: Medley Management Operating  
 Sorted By: Type  
 Sort Order: Ascending

Type Number	Date	Paid To/Rcvd From	Trx Amount	Cleared Amount
CHK EFT000000000358	1/12/2021	Lowenstein Sandler PC	(\$51,126.00)	
CHK EFT000000000359	1/12/2021	RSM	(\$105,000.00)	
CHK EFT000000000360	1/19/2021	Experis US inc.	(\$1,800.00)	
CHK EFT000000000361	1/26/2021	ETrade Financial Corporate Ser	(\$125.00)	
CHK EFT000000000362	1/26/2021	Experis US inc.	(\$1,200.00)	
IAJ IAJ000006797	1/14/2021	Berkshire Hathaway	\$2,338,772.03	
XFR XFR000006780	1/12/2021	Transfer From 1000PR	\$156,000.00	
XFR XFR000006813	1/29/2021	Transfer To 1000PR	(\$379,886.20)	
XFR XFR000006818	1/28/2021	Transfer To 100PAY	(\$470,866.85)	

9 Transaction(s)

Totals:  
 Number of Payments 7  
 Amount of Payments \$1,010,004.05  
 Number of Deposits 2  
 Amount of Deposits \$2,494,772.03

System: 2/15/2021 11:15:39 AM  
User Date: 2/15/2021

Medley Capital  
OUTSTANDING TRANSACTIONS REPORT  
Bank Reconciliation

Page: 1  
User ID: vhuynh

Audit Trail Code:

Checkbook ID: 0100PR  
Description: Medley Management Operating  
Sorted By: Type  
Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount
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0 Transaction(s)

Totals:

Number of Payments	0
Amount of Payments	\$0.00
Number of Deposits	0
Amount of Deposits	\$0.00



Account #: [REDACTED] 1150

This statement: January 29, 2021  
 Last statement: December 31, 2020

Contact us:  
 800 773-7100

Los Angeles Main Office  
 525 S. Flower ST.  
 Los Angeles CA 90071

210  
 MEDLEY MANAGEMENT INC  
 280 PARK AVE 6TH FL E  
 NEW YORK NY 10017

0830N

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**Analyzed Business Checking**

**Account Summary**

Account number	[REDACTED] 1150
Minimum balance	\$10,089.46
Average balance	\$1,259,439.27
Avg. collected balance	\$1,259,439.00

**Account Activity**

<b>Beginning balance (12/31/2020)</b>		\$10,215.46
<b>Credits</b>		
Deposits (0)	+ 0.00	
Electronic cr (1)	+ 2,338,772.03	
Other credits (1)	+ 156,000.00	
<b>Total credits</b>		+ \$2,494,772.03
<b>Debits</b>		
Checks paid (0)	- 0.00	
Electronic db (5)	- 159,251.00	
Other debits (2)	- 850,753.05	
<b>Total debits</b>		- \$1,010,004.05
<b>Ending balance (1/29/2021)</b>		\$1,494,983.44

**ELECTRONIC CREDITS**

Date	Description	Credits
1-14	Incoming Wire-Dom	2,338,772.03

**OTHER CREDITS**

Date	Description	Reference	Credits
1-12	Account Transfer Cr. FR ACC [REDACTED]	3866	156,000.00

**ELECTRONIC DEBITS**

Date	Description	Debits
1-13	Easi Wire Out-Dom	51,126.00
1-13	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	105,000.00
1-19	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	1,800.00
1-26	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	125.00
1-26	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	1,200.00

**OTHER DEBITS**

Date	Description	Reference	Debits
1-28	Account Transfer Dr. TO ACC [REDACTED]	4145	470,866.85
1-29	Account Transfer Dr. TO ACC [REDACTED]	3866	379,886.20

**DAILY BALANCES**

Date	Amount	Date	Amount	Date	Amount	Date	Amount
12-31	10,215.46	1-13	10,089.46	1-19	2,347,061.49	1-28	1,874,869.64
1-12	166,215.46	1-14	2,348,861.49	1-26	2,345,736.49	1-29	1,494,983.44

Thank you for banking with Los Angeles Main Office

**Exhibit D**

System: 1/6/2021 11:35:16 AM  
 User Date: 1/6/2021

Medley Capital  
 RECONCILIATION POSTING JOURNAL  
 Bank Reconciliation

Page: 1  
 User ID: vhuynh

Ranges: From: To:  
 Company

Audit Trail Code: CMADJ00001665

Bank Statement Ending Balance: \$1,366,902.85  
 Bank Statement Ending Date: 12/31/2020  
 Cutoff Date: 12/31/2020

Company: 120  
 Checkbook ID: 1200PR  
 Description: Medley LLC Operating

Statement Ending Balance	\$1,366,902.85
Outstanding Checks (-)	\$0.00
Deposits in Transit (+)	\$0.00
	-----
Adjusted Bank Balance	\$1,366,902.85
	-----
Checkbook Balance as of Cutoff	\$1,366,902.85
Adjustments	\$0.00
	-----
Adjusted Book Balance	\$1,366,902.85
	-----
Difference	\$0.00
	=====

System: 1/6/2021 11:35:26 AM  
User Date: 1/6/2021

Medley Capital  
BANK ADJUSTMENTS POSTING JOURNAL  
Bank Reconciliation

Page: 1  
User ID: vhuynh

Audit Trail Code: CMADJ00001665  
Checkbook ID: 1200PR  
Description: Medley LLC Operating

Type	Number	Date	Posting Date	Checkbook Amount
-----				
Total Adjustments:	0			



System: 1/6/2021 11:35:31 AM  
 User Date: 1/6/2021

Medley Capital  
 CLEARED TRANSACTIONS JOURNAL  
 Bank Reconciliation

Page: 1  
 User ID: whuynh

Ranges: From: To:  
 Company

Audit Trail Code: CMADJ00001665  
 Company: 120  
 Checkbook ID: 1200PR  
 Description: Medley LLC Operating  
 Sorted By: Type  
 Sort Order: Ascending

Type Number	Date	Paid To/Rcvd From	Trx Amount	Cleared Amount
CHK EFT000000000218	12/1/2020	Patterson Belknap Webb & Tyler	(\$4,169.54)	
CHK EFT000000000219	12/1/2020	Rick Allorto	(\$5,500.00)	
CHK EFT000000000220	12/1/2020	Brook Taube	(\$30,500.00)	
CHK EFT000000000221	12/1/2020	Sam Anderson	(\$24,117.54)	
CHK EFT000000000222	12/1/2020	Seth Taube	(\$20,000.00)	
CHK EFT000000000223	12/1/2020	John Fredericks	(\$28,108.37)	
CHK EFT000000000224	12/10/2020	Rick Allorto- TD Bank	(\$15,969.92)	
CHK EFT000000000225	12/10/2020	Brook Taube	(\$10,762.34)	
CHK EFT000000000226	12/10/2020	Christopher Taube	(\$26,732.26)	
CHK EFT000000000228	12/10/2020	Howard Liao	(\$30,203.98)	
CHK EFT000000000229	12/10/2020	Jeffrey Tonkel	(\$10,762.34)	
CHK EFT000000000230	12/10/2020	John Fredericks	(\$15,969.92)	
CHK EFT000000000231	12/10/2020	Sam Anderson	(\$15,969.92)	
CHK EFT000000000232	12/15/2020	Christopher Taube	(\$7,500.00)	
CHK EFT000000000233	12/15/2020	Lowenstein Sandler PC	(\$250,000.00)	
CHK EFT000000000234	12/22/2020	RSM	(\$50,400.00)	
WDL WIRE#201201000000435	12/1/2020	Eversheds Sutherland (US) LLP	(\$200,000.00)	
WDL WIRE#201201000015679	12/1/2020	John Fredericks	(\$25,000.00)	
WDL WIRE#201210010132	12/10/2020	Eversheds Sutherland (US) LLP	(\$976,485.72)	
WDL WIRE#201223000334	12/23/2020	Eversheds Sutherland (US) LLP	(\$200,000.00)	
IAJ IAJ000006733	12/16/2020	MOF II MGMT	\$250,000.00	
IAJ IAJ000006735	12/16/2020	Medley SMA Advisors	\$350,000.00	
IAJ IAJ000006737	12/16/2020	MCC Advisors	\$1,400,000.00	
IAJ IAJ000006752	12/2/2020	Eversheds Sutherland	\$24,936.40	
DAJ DAJ000006741	12/31/2020	CNB	(\$100.00)	
XFR XFR000006716	12/10/2020	Transfer From 1000PR	\$976,485.72	
XFR XFR000006738	12/18/2020	Transfer To 0100PR	(\$150,000.00)	
XFR XFR000006747	12/29/2020	Transfer To 1000PR	(\$407,154.13)	

28 Transaction(s)

Totals:  
 Number of Payments 23  
 Amount of Payments \$2,505,405.98  
 Number of Deposits 5  
 Amount of Deposits \$3,001,422.12

System: 1/6/2021 11:35:37 AM  
User Date: 1/6/2021

Medley Capital  
OUTSTANDING TRANSACTIONS REPORT  
Bank Reconciliation

Page: 1  
User ID: vhuynh

Audit Trail Code:  
Checkbook ID: 1200PR  
Description: Medley LLC Operating  
Sorted By: Type  
Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount
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0 Transaction(s)

Totals:				
Number of Payments				0
Amount of Payments				\$0.00
Number of Deposits				0
Amount of Deposits				\$0.00



Account #: [REDACTED] 7483

This statement: December 31, 2020  
 Last statement: November 30, 2020

Contact us:  
 800 773-7100

Los Angeles Main Office  
 525 S. Flower ST.  
 Los Angeles CA 90071

210  
 MEDLEY LLC  
 280 PARK AVE 6TH FL E  
 NEW YORK NY 10017

0830N

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**Analyzed Business Checking**

**Account Summary**

Account number	[REDACTED] 483
Minimum balance	\$432,056.98
Average balance	\$1,205,445.56
Avg. collected balance	\$1,205,445.00

**Account Activity**

Beginning balance (11/30/2020)		\$870,886.71
<b>Credits</b>	Deposits (0)	+ 0.00
	Electronic cr (1)	+ 24,936.40
	Other credits (4)	+ 2,976,485.72
	<b>Total credits</b>	<b>+ \$3,001,422.12</b>
<b>Debits</b>	Checks paid (0)	- 0.00
	Electronic db (20)	- 1,948,151.85
	Other debits (3)	- 557,254.13
	<b>Total debits</b>	<b>- \$2,505,405.98</b>
Ending balance (12/31/2020)		\$1,366,902.85

**ELECTRONIC CREDITS**

Date	Description	Credits
12-2	Preauthorized Credit EVERSHEDES SUTH RUSH1201 PPD MEDLEY CAPITAL 1590119	24,936.40

**OTHER CREDITS**

Date	Description	Reference	Credits
12-10	Account Transfer Cr. FR ACC [REDACTED]	3866	976,485.72
12-16	Account Transfer Cr. FR ACC [REDACTED]	3882	250,000.00
12-16	Account Transfer Cr. FR ACC [REDACTED]	1142	350,000.00
12-16	Account Transfer Cr. FR ACC [REDACTED]	3874	1,400,000.00

**ELECTRONIC DEBITS**

Date	Description	Debits
12-1	Bsuite Wire Out-Dom	25,000.00
12-1	Bsuite Wire Out-Dom	200,000.00
12-1	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	4,169.54
12-1	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	5,500.00
12-2	Easi Wire Out-Dom	20,000.00
12-2	Easi Wire Out-Dom	24,117.54
12-2	Easi Wire Out-Dom	28,108.37
12-2	Easi Wire Out-Dom	30,500.00
12-10	Bsuite Wire Out-Dom	976,485.72
12-14	Easi Wire Out-Dom	10,762.34
12-14	Easi Wire Out-Dom	10,762.34
12-14	Easi Wire Out-Dom	15,969.92
12-14	Easi Wire Out-Dom	15,969.92
12-14	Easi Wire Out-Dom	26,732.26



MEDLEY LLC  
December 31, 2020

Page 2  
Account #: [REDACTED] 7483

**ELECTRONIC DEBITS (Continued)**

Date	Description	Debits
12-14	Easi Wire Out-Dom	30,203.98
12-14	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	15,969.92
12-16	Easi Wire Out-Dom	7,500.00
12-16	Easi Wire Out-Dom	250,000.00
12-22	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	50,400.00
12-23	Bsuite Wire Out-Dom	200,000.00

**OTHER DEBITS**

Date	Description	Reference	Debits
12-18	Account Transfer Dr. TO ACC [REDACTED] 1150		150,000.00
12-29	Account Transfer Dr. TO ACC [REDACTED] 3866		407,154.13
12-31	Periodic Fee CNTRL. AGRMNT. FEE		100.00

**DAILY BALANCES**

Date	Amount	Date	Amount	Date	Amount	Date	Amount
11-30	870,886.71	12-10	558,427.66	12-18	2,024,556.98	12-29	1,367,002.85
12-1	636,217.17	12-14	432,056.98	12-22	1,974,156.98	12-31	1,366,902.85
12-2	558,427.66	12-16	2,174,556.98	12-23	1,774,156.98		

Thank you for banking with Los Angeles Main Office

System: 2/15/2021 11:25:08 AM  
 User Date: 2/15/2021

Medley Capital  
 CLEARED TRANSACTIONS JOURNAL  
 Bank Reconciliation

Page: 1  
 User ID: vhuynh

Ranges: From: To:  
 Company

Audit Trail Code: CMADJ00001676  
 Company: 120  
 Checkbook ID: 1200PR  
 Description: Medley LLC Operating  
 Sorted By: Type  
 Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount	Cleared Amount
CHK	EFT00000000235	1/5/2021	Rick Allorto	(\$25,000.00)	
CHK	EFT00000000236	1/5/2021	Brook Taube	(\$50,000.00)	
CHK	EFT00000000237	1/5/2021	Christopher Taube	(\$25,000.00)	
CHK	EFT00000000238	1/5/2021	Sam Anderson	(\$24,117.54)	
CHK	EFT00000000239	1/5/2021	Seth Taube	(\$20,000.00)	
CHK	EFT00000000240	1/12/2021	Alliance Advisors LLC	(\$20,000.00)	
CHK	EFT00000000241	1/12/2021	Lowenstein Sandler PC	(\$127,150.50)	
CHK	EFT00000000242	1/26/2021	Eversheds Sutherland (US) LLP	(\$794,939.34)	
WDL	ACH#122000495480929	1/8/2021	Franchise Tax Board	(\$1,000.21)	
WDL	ACH#51000011633680	1/6/2021	NYC Department of Finance	(\$19,000.00)	
WDL	ACH#51000011633702	1/6/2021	NYC Department of Finance	(\$20.00)	
WDL	WIRE#210105009827	1/5/2021	John Fredericks	(\$25,000.00)	
WDL	WIRE#210128016167	1/28/2021	B. Riley Securities, Inc	(\$20,000.00)	
WDL	WIRE#210129009079	1/29/2021	Lowenstein Sandler PC	(\$379,886.20)	
IAJ	IAJ000006803	1/21/2021	STRF	\$30,703.71	
IAJ	IAJ000006806	1/26/2021	Medley GP Holdings	\$538,909.33	
DAJ	DAJ000006821	1/29/2021	CNB	(\$100.00)	
XFR	XFR000006758	1/7/2021	Transfer To 1000PR	(\$780,858.51)	
XFR	XFR000006762	1/7/2021	Transfer From 6010PR	\$140,227.75	
XFR	XFR000006796	1/21/2021	Transfer From 3100PR	\$799.94	
XFR	XFR000006814	1/29/2021	Transfer From 1000PR	\$379,886.20	

21 Transaction(s)

Totals:  
 Number of Payments 16  
 Amount of Payments \$2,312,072.30  
 Number of Deposits 5  
 Amount of Deposits \$1,090,526.93

System: 2/15/2021 11:25:13 AM  
User Date: 2/15/2021

Medley Capital  
OUTSTANDING TRANSACTIONS REPORT  
Bank Reconciliation

Page: 1  
User ID: vhuynh

Audit Trail Code:  
Checkbook ID: 1200PR  
Description: Medley LLC Operating  
Sorted By: Type  
Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount
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0 Transaction(s)

Totals:  
Number of Payments 0  
Amount of Payments \$0.00  
Number of Deposits 0  
Amount of Deposits \$0.00



Account #: [REDACTED] 7483

This statement: January 29, 2021  
 Last statement: December 31, 2020

Contact us:  
 800 773-7100

Los Angeles Main Office  
 525 S. Flower ST.  
 Los Angeles CA 90071

210  
 MEDLEY LLC  
 280 PARK AVE 6TH FL E  
 NEW YORK NY 10017

0830N

cnb.com

**Analyzed Business Checking**

**Account Summary**

Account number	[REDACTED] 7483
Minimum balance	\$145,457.48
Average balance	\$614,864.25
Avg. collected balance	\$614,864.00

**Account Activity**

<b>Beginning balance (12/31/2020)</b>		\$1,366,902.85
<b>Credits</b>		
Deposits (0)	+ 0.00	
Electronic cr (0)	+ 0.00	
Other credits (5)	+ 1,090,526.93	
<b>Total credits</b>		+ \$1,090,526.93
<b>Debits</b>		
Checks paid (0)	- 0.00	
Electronic db (14)	- 1,531,113.79	
Other debits (2)	- 780,958.51	
<b>Total debits</b>		- \$2,312,072.30
<b>Ending balance (1/29/2021)</b>		\$145,357.48

**OTHER CREDITS**

Date	Description	Reference	Credits
1-7	Account Transfer Cr. FR ACC [REDACTED] 0482		140,227.75
1-21	Account Transfer Cr. FR ACC [REDACTED] 3777		799.94
1-21	Account Transfer Cr. FR ACC [REDACTED] 3777		30,703.71
1-26	Account Transfer Cr. FR ACC [REDACTED] 3904		538,909.33
1-29	Account Transfer Cr. FR ACC [REDACTED] 3866		379,886.20

**ELECTRONIC DEBITS**

Date	Description	Debits
1-5	Bsuite Wire Out-Dom	25,000.00
1-5	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	25,000.00
1-6	Easi Wire Out-Dom	20,000.00
1-6	Easi Wire Out-Dom	24,117.54
1-6	Easi Wire Out-Dom	25,000.00
1-6	Easi Wire Out-Dom	50,000.00
1-6	Preauthorized Debit NYC DEPT OF FINA TAXPAYMENT 1481275904 MCOF MANAGEMENT LL CCD	20.00
1-6	Preauthorized Debit NYC DEPT OF FINA TAXPAYMENT 1258273280 MCOF MANAGEMENT LL CCD	19,000.00
1-8	Preauthorized Debit FRANCHISE TAX BO PAYMENTS 76067968 PM MEDLEY G CCD	1,000.21
1-13	Easi Wire Out-Dom	127,150.50
1-13	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	20,000.00
1-27	Easi Wire Out-Dom	794,939.34
1-28	Bsuite Wire Out-Dom	20,000.00
1-29	Bsuite Wire Out-Dom	379,886.20



MEDLEY LLC  
January 29, 2021

Page 2  
Account #: [REDACTED] 7483

**OTHER DEBITS**

Date	Description	Reference	Debits
1-7	Account Transfer Dr. TO ACC [REDACTED] 3866		780,858.51
1-29	Periodic Fee CNTRL. AGRMNT. FEE		100.00

**DAILY BALANCES**

Date	Amount	Date	Amount	Date	Amount	Date	Amount
12-31	1,366,902.85	1-7	538,134.55	1-21	421,487.49	1-28	145,457.48
1-5	1,316,902.85	1-8	537,134.34	1-26	960,396.82	1-29	145,357.48
1-6	1,178,765.31	1-13	389,983.84	1-27	165,457.48		



System: 4/8/2021 2:17:53 PM  
 User Date: 4/8/2021

Medley Capital  
 CLEARED TRANSACTIONS JOURNAL  
 Bank Reconciliation

Page: 1  
 User ID: vhuynh

Ranges: From: To:  
 Company

Audit Trail Code: CMADJ00001727  
 Company: 120  
 Checkbook ID: 1200PR  
 Description: Medley LLC Operating  
 Sorted By: Type  
 Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount	Cleared Amount
CHK	EFT000000000251	3/2/2021	Eversheds Sutherland (US) LLP	(\$18,380.00)	
CHK	EFT000000000252	3/2/2021	John Fredericks	(\$5,087.43)	
CHK	EFT000000000253	3/2/2021	Lowenstein Sandler PC	(\$168,722.75)	
CHK	EFT000000000254	3/2/2021	Patterson Belknap Webb & Tyler	(\$9,340.00)	
WDL	ACH#91000017110762	3/15/2021	New York State Department of T	(\$4,500.00)	
WDL	WIRE#210301011750	3/1/2021	Kurtzman Carson Consultants LL	(\$30,000.00)	
WDL	WIRE#210301011751	3/1/2021	Eversheds Sutherland (US) LLP	(\$26,181.47)	
WDL	WIRE#210301011752	3/1/2021	John Fredericks	(\$25,000.00)	
WDL	WIRE#210302014185	3/2/2021	Andersen Tax LLC	(\$144,000.00)	
WDL	WIRE#210303003168	3/3/2021	Kurtzman Carson Consultants LL	(\$22,382.00)	
WDL	WIRE#210303004518	3/3/2021	John Fredericks	(\$48,912.33)	
IAJ	IAJ000006961	3/2/2021	Medley Capital	\$250,000.00	
IAJ	IAJ000006963	3/3/2021	Medley GP Holdings	\$150,000.00	
IAJ	IAJ000006998	3/26/2021	SIC	\$950,000.00	
DAJ	DAJ000006999	3/26/2021	Medley Capital	(\$950,000.00)	
DAJ	DAJ000007012	3/31/2021	CNB	(\$100.00)	
XFR	XFR000006953	3/5/2021	Transfer From 1000PR	\$74,430.50	
XFR	XFR000006954	3/5/2021	Transfer From 3000PR	\$20,845.68	
XFR	XFR000006955	3/5/2021	Transfer To 0100PR	(\$166,655.18)	
XFR	XFR000006988	3/2/2021	Transfer To 0100PR	(\$450,000.00)	
XFR	XFR000006989	3/1/2021	Transfer To 0100PR	(\$50,000.00)	

21 Transaction(s)

Totals:  
 Number of Payments 16  
 Amount of Payments \$2,119,261.16  
 Number of Deposits 5  
 Amount of Deposits \$1,445,276.18

System: 4/8/2021 2:18:03 PM  
User Date: 4/8/2021

Medley Capital  
OUTSTANDING TRANSACTIONS REPORT  
Bank Reconciliation

Page: 1  
User ID: vhuynh

Audit Trail Code:  
Checkbook ID: 1200PR  
Description: Medley LLC Operating  
Sorted By: Type  
Sort Order: Ascending

Type	Number	Date	Paid To/Rcvd From	Trx Amount
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0 Transaction(s)

Totals:

Number of Payments	0
Amount of Payments	\$0.00
Number of Deposits	0
Amount of Deposits	\$0.00



Account #: [REDACTED] 7483

This statement: March 31, 2021  
 Last statement: February 26, 2021

Contact us:  
 800 773-7100

Los Angeles Main Office  
 525 S. Flower ST.  
 Los Angeles CA 90071

210  
 MEDLEY LLC  
 280 PARK AVE 6TH FL E  
 NEW YORK NY 10017

0830N

cnb.com

UPDATE TO TREASURY MANAGEMENT DISCLOSURE AND AGREEMENT (TMDA) USERS OF TREASURY SERVICES MAY FIND THE UPDATED TMDA ONLINE ON WWW.CNB.COM/TREASURYAGREEMENT. UPDATES INCLUDE: CLIENT ADMINISTRATION FOR ONLINE SERVICES, CHECK POSITIVE PAY, EASI LINK CONNECTORS, REMOTE CHECK EXPRESS, REMOTE CASH VAULT, AND CONTROLLED DISBURSEMENT.

**Analyzed Business Checking**

**Account Summary**

Account number	[REDACTED] 483
Minimum balance	\$8,373.41
Average balance	\$77,358.11
Avg. collected balance	\$77,358.00

**Account Activity**

<b>Beginning balance (2/26/2021)</b>		\$682,258.39
<b>Credits</b>		
Deposits (0)	+ 0.00	
Electronic cr (0)	+ 0.00	
Other credits (5)	+ 1,445,276.18	
<b>Total credits</b>		<b>+ \$1,445,276.18</b>
<b>Debits</b>		
Checks paid (0)	- 0.00	
Electronic db (11)	- 502,505.98	
Other debits (5)	- 1,616,755.18	
<b>Total debits</b>		<b>- \$2,119,261.16</b>
<b>Ending balance (3/31/2021)</b>		<b>\$8,273.41</b>

**OTHER CREDITS**

Date	Description	Reference	Credits
3-2	Account Transfer Cr. FR ACC [REDACTED] 3866		250,000.00
3-3	Account Transfer Cr. FR ACC [REDACTED] 3904		150,000.00
3-5	Account Transfer Cr. FR ACC [REDACTED] 3890		20,845.68
3-5	Account Transfer Cr. FR ACC [REDACTED] 3866		74,430.50
3-26	Account Transfer Cr. FR ACC [REDACTED] 3890		950,000.00

**ELECTRONIC DEBITS**

Date	Description	Debits
3-1	Bsuite Wire Out-Dom	25,000.00
3-1	Bsuite Wire Out-Dom	26,181.47
3-1	Bsuite Wire Out-Dom	30,000.00
3-2	Bsuite Wire Out-Dom	144,000.00
3-2	Preauthorized Debit MEDLEY CAPITAL PAYMENT ACH OFFSET MEDLEY CCD	9,340.00
3-3	Easi Wire Out-Dom	5,087.43
3-3	Easi Wire Out-Dom	18,380.00
3-3	Easi Wire Out-Dom	168,722.75



MEDLEY LLC  
March 31, 2021

Page 2  
Account #: [REDACTED] 7483

**ELECTRONIC DEBITS (Continued)**

Date	Description	Debits
3-3	Bsuite Wire Out-Dom	22,382.00
3-3	Bsuite Wire Out-Dom	48,912.33
3-15	Preauthorized Debit NYS DTF PIT TAX PAYMNT 00000065240461 PL2195072044 CCD	4,500.00

**OTHER DEBITS**

Date	Description	Reference	Debits
3-1	Account Transfer Dr. TO ACC [REDACTED] 150		50,000.00
3-2	Account Transfer Dr. TO ACC [REDACTED] 150		450,000.00
3-5	Account Transfer Dr. TO ACC [REDACTED] 150		166,655.18
3-26	Account Transfer Dr. TO ACC [REDACTED] 866		950,000.00
3-31	Periodic Fee CNTRL. AGRMNT. FEE		100.00

**DAILY BALANCES**

Date	Amount	Date	Amount	Date	Amount	Date	Amount
2-26	682,258.39	3-2	197,736.92	3-5	12,873.41	3-26	8,373.41
3-1	551,076.92	3-3	84,252.41	3-15	8,373.41	3-31	8,273.41

Thank you for banking with Los Angeles Main Office