

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

21 CR 54 (DG)

DAVID GENTILE, et al.

Defendants.

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THE GOVERNMENT'S RESPONSE
TO DEFENDANT GENTILE'S MOTION TO SUPPRESS MATERIALS SEIZED DURING
THE FEBRUARY 28, 2019 PREMISES SEARCHES

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PRELIMINARY STATEMENT

The government respectfully submits this memorandum in response to defendant Gentile’s motion (the “Motion” or “Def. Mot.”) to suppress material seized during the judicially-authorized searches GPB Capital Management LLC (“GPB”) locations in Manhattan (the “Manhattan Warrant”) and Garden City (the “Garden City Warrant”), New York, as well as GPB’s server location in Manhattan, housed at Alphaserve Technologies (the “Alphaserve Warrant”) (collectively “the Warrants”), one of defendant Gentile’s companies.¹ ECF Dkt. No. 156.

Defendant Gentile challenges the evidence seized from the Warrants, arguing that (1) there was no probable cause; (2) deliberate misrepresentations were made in the supporting affidavits; (3) the Warrants violated the particularity requirement; and (4) the government failed to properly execute the Warrants and mishandled seized electronic evidence. The Motion is factually inaccurate,² legally baseless and should be denied without a hearing.

The Warrants are supported by detailed probable cause statements and are sufficiently particularized. Because the crimes described in the underlying affidavits are complex, wide-ranging, and pervasive to GPB’s alleged business, the Warrants call for the seizure of a proportionate variety of documents and records. This is appropriate and fully compliant with the Fourth Amendment. Furthermore, even assuming, arguendo, that the warrant was somehow defective, which it was not, the good faith doctrine would preclude suppression in this case.

¹ As the supporting affidavits and Warrants are largely identical, the response herein discusses them collectively, except where specifically noted.

² Except where expressly consented to herein, the government denies any factual allegations made in the Motion.

RELEVANT BACKGROUND

I. The Investigation into GPB

The Court is familiar with the facts and background of the investigation. Briefly, in or about and between August 2015 and December 2018, the defendants David Gentile, Jeffrey Schneider and Jeffrey Lash, together with others, engaged in a scheme to defraud investors and prospective investors in various GPB Funds through material misrepresentations and omissions relating to, among other things: (a) the source of funds used to pay monthly distribution payments to investors in several of the GPB Funds, and (b) the revenue generated by some GPB Funds in certain fiscal years.

These material misrepresentations and omissions induced investors to invest their capital based on their understanding that the investment strategy of those funds had been, and would continue to be, to use investor funds to purchase mature, profitable companies (the “portfolio companies”) that were already generating cash flow sufficient to pay the investors’ monthly distributions. The investors were led to believe that they would receive monthly liquidity in the form of distribution payments, but that the payment of these distributions would not diminish the value of their invested capital, which would remain invested in the portfolio companies and potentially generate a substantial return in the event of a liquidity event, such as a sale or initial public offering. In reality, the investigation revealed that from in or about and between August 2015 and December 2018, the portfolio companies frequently underperformed expectations, the monthly distribution payments were substantially derived from investor capital and, in December 2018, the monthly distribution payments were suspended.

II. The Search Warrants

On or about February 27, 2019, the government applied for three warrants to search and seize materials from GPB's offices in Manhattan and Garden City, as well as from GPB's server housed at Alphaserve, a Gentile-controlled company in Manhattan. The Honorable Ona T. Wang, Magistrate Judge for the Southern District of New York, authorized the Manhattan Warrant and the Alphaserve Warrant, 19-M-2030, and the Honorable Steven I. Locke, Magistrate Judge for the Eastern District of New York, authorized the Garden City Warrant, 19-M-182. The Garden City Warrant is attached hereto as Exhibit A, and the Manhattan and Alphaserve Warrants are attached hereto as Exhibit B.

The Warrants described the locations to be searched and the items to be seized with specificity. The Manhattan Warrant identified the property to be searched as "The Computer Server And Any Laptop Computer Used By David Gentile, Michael Barbagallo, Melissa Aurigemma and Others, Stored Inside the Offices Of GPB Capital Holdings, Located on the Second Through Sixth Floors Of 535 West St 24th Street, New York, New York, and Inside the Locked and Closed Containers or Items Contained Therein," and the Alphaserve Warrant identified the property to be searched as "The Computer Server Housed at Alphaserve Technologies, 104 West 40th Street, New York, New York." Exhibit B, pp. 1-2, 27-28. With respect to the Garden City Warrant, the property to be searched was identified as "GPB Capital Holdings' Accounting Offices, Located on The First And Second Floors Of Gentile Pismeny and Brengel,³ 1581 Franklin Avenue, Garden City, New York and Inside the Locked and Closed Containers or Items Contained Therein." Exhibit A, pp. 1-2, 27.

³ Gentile Pismeny and Brengel LLP was GPB's accounting firm, and GPB retained an office space at that location.

Regarding the property to be seized, the Warrants referenced “all records relating to violations” of a variety of criminal statutes “involving managers and employees of GPB and Ascendant, including, but not limited to, David Gentile and Jeffrey Schneider, and occurring after January 1, 2013,” and included an illustrative list of over fifteen different types of such records, including, inter alia “performance and valuation summaries;” investor lists, the amounts invested, and distribution payments or redemptions; investor communications; communications with auditors; records of money transfers, such as internal memoranda and other reports; records and communications related to audited financial statements; marketing materials; records relating to performance guarantees or the source of funds or calculations for distributions; broker dealer due diligence records; and documents relating to investor fees. Exhibit A 28-30; Exhibit B, pp. 29-34. Additional qualifying language pertained to electronic storage media, such as computers or data retrieved pursuant to the Alphaserve Warrant.

The two affidavits (the “Affidavits”) in support of the Warrants contained largely the same information. The Affidavits set out the training and experience of the affiants; their participation in the investigation; and bases of knowledge. See Exhibit A, pp. 1-3; Exhibit B, pp. 1-3. The Affidavits also made clear that they did not set forth a description of all the facts and circumstances of which the affiants were aware or that had been learned through the investigation. Id.

In the statement of probable cause, the Affidavits describe the relevant entities and provide substantial evidence that “despite distributing marketing materials representing that GPB pays investors an 8% annual return funded completely by investment profits, in reality GPB uses the capital contributions of some investors to pay the annual returns to other investors . . . from at least 2013 to the present, in the Southern District of New York, the Eastern District of

New York and elsewhere, David Gentile, Jeffrey Schneider, other managers and employees of GPB, together with others, engaged in a scheme to defraud investors and potential investors in GPB through material misrepresentations and omissions about, among other things, the performance, liquidity, ownership, control, and use of investments in GPB's funds." Exhibit A, pp. 4-8; Exhibit B, pp. 4-9. The Affidavits featured information regarding several GPB funds that derived from a variety of sources, including inter alia, high-ranking GPB employees; communications amongst GPB employees; GPB marketing materials; bank records and other documents obtained through grand jury subpoenas; audited financial statements; investor communications from various GPB funds; and materials obtained from the Securities and Exchange Commission ("SEC"). See Exhibit A, pp. 8-17; Exhibit B, pp. 8-20. The Affidavits also detailed the use of fraudulent and backdated performance guarantees in furtherance of the scheme to deceive investors about the extent to which their monthly distribution payments were paid via cash flow from the portfolio companies. See Exhibit A, pp. 14-15; Exhibit B, pp. 15.

The Affidavits described each location to be searched and its connection to the crimes and individuals under investigation. See Exhibit A, pp. 14-15; Exhibit B, pp. 15-18.

A detailed description of computers, electronic storage and digital forensic analysis was included, which discussed the methods used to search and seize electronic evidence pursuant to the Warrants. See Exhibit A, pp. 18-25; Exhibit B, pp. 18-25. Given the nature, scope and expected volume of material, the Affidavits outlined the temporal and technical factors necessitating the copying of storage media for off-site review, rather than viewing it on-site during the search of the physical premises. Id. The Affidavits also discussed how reasonable execution of the Warrants would "likely involve conducting an investigation on the scene of what computers, or storage media, must be seized or copied, and what computers or storage

media need not be seized or copied. Where appropriate, officers will copy data, rather than physically seize computers, to reduce the extent of disruption. If employees of GPB so request, the agents will, to the extent practicable, attempt to provide the employees with copies of data that may be necessary or important to the continuing function of GPB's business. If, after inspecting the computers, it is determined that some or all of this equipment is no longer necessary to retrieve and preserve the evidence, the government will return it.” Exhibit A, p. 25; Exhibit B, p. 25.

III. Execution and Production of Materials

On or about February 28, 2019, the Warrants were executed at GPB’s Manhattan and Garden City offices, as well as at its server housed at Alphaserve. Counsel for GPB was present at the Manhattan office during the search and communicated with both the agents executing the warrant and members of the prosecution team during the search, which lasted several hours and concluded that same day. Pursuant to the Warrants, electronic evidence from GPB’s server was seized, as well as electronic devices such as laptops, tablets and related peripherals associated with several custodians, including Gentile. From the Manhattan office, fifteen laptops, four hard drives and one thumb drive were seized. These items were either forensically imaged on site during the execution of the Warrants or were taken and imaged at Federal Bureau of Investigation facilities by members of the Computer Analysis and Response Team (“CART”) and subsequently returned to GPB’s counsel approximately two weeks later. An inventory of the items taken or imaged pursuant to the Warrants was disclosed to the defendants as part of the government’s Rule 16 discovery production.

Prior to any member of the prosecution team reviewing the seized evidence for material responsive to the Search Warrants, forensic software and other tools were utilized to

identify and segregate any potentially privileged communications or materials. This included the use of word search techniques, such as the names, emails and other identifiers of known in-house or outside attorneys that were retained or consulted by individuals and entities associated with GPB, as well as Boolean operators. These identifiers were provided to the government by GPB's counsel, upon the government's request, and contained well over 100 attorneys and consultants from dozens of firms. Any items that "hit" on these searches were removed, placed in the custody of the filter team, and have not been available to any member of the prosecution team. In total, these potentially privileged materials comprised approximately 146,601 documents. In the case of the non-privileged documents on the prosecution side of the database, the government produced all materials that hit on subject matter search terms, which numbered approximately 492,000 documents, thereby ensuring that all defendants had any material that was likely to be relevant to their defense.

The government then undertook a more targeted analysis. To identify materials responsive to the Warrants, the government applied subject matter search terms and keywords to the materials that were not identified as potentially privileged during the privilege screen. These materials were produced to the defense on March 2, 2021,⁴ and the government offered to make immediately available to the defendants a complete copy of the data obtained in connection with the Warrants. The government also undertook substantial document-by-document review of the materials that hit on search terms in order to identify truly responsive material that it may seek to admit at trial, and on or about August 27, 2021, the government disclosed a subset of approximately 2,000 responsive items to the defense that could constitute trial evidence or exhibits.

⁴ The grand jury voted an indictment on January 29, 2021.

To comply with its discovery obligations while balancing the interests of parties who may hold privileges in certain materials seized pursuant to the Warrants, in August 2021, the government proposed a Rule 502(d) stipulation, which provided that the filter team would produce any potentially privileged materials to the defendants while preserving any and all potential privilege claims that could be asserted by any of the signatories or other privilege holders. While GPB and defendant Lash consented, defendants Gentile and Schneider were unwilling to join the stipulation. As the Court is aware, protracted litigation over this issue ensued, and on June 3, 2022, the Court ultimately concurred with the government's proposal to produce approximately 95,000 documents pursuant to a 502(d) Order and denied the defendants' request for protective orders and third-party privilege review. The government produced those materials shortly thereafter.

LEGAL STANDARD

The Warrants Clause of the Fourth Amendment provides that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV.

I. Probable Cause

Probable cause is a “flexible, common-sense standard,” Texas v. Brown, 460 U.S. 730, 742 (1983), which requires a case-by-case analysis of the totality of the circumstances, see Illinois v. Gates, 462 U.S. 213, 230 (1983). A valid search warrant rests on a proper finding that probable cause exists to believe (1) that a crime has been committed, and (2) that evidence or instrumentalities of the crime will be found in the place to be searched. See United States v. Travisano, 724 F.2d 341, 345 (2d Cir. 1983); see also Warden v. Hayden, 387 U.S. 294, 307 (1967) (warrant may be issued to search for anything where there is a connection “between the

item to be seized and criminal behavior”). While probable cause requires more than generalized suspicion, it “does not require a prima facie showing” of criminality. United States v. Martin, 426 F.3d 68, 74 (2d Cir. 2005). Instead, probable cause may be established by a mere “probability or substantial chance of criminal activity.” United States v. Bakhtiari, 913 F.2d 1053, 1062 (2d Cir. 1990). Review for existence of probable cause is not de novo; “[a] magistrate's determination of probable cause should be paid great deference by reviewing courts.” United States v. Smith, 9 F.3d 1007, 1012 (2d Cir. 1993) (quotation marks and citations omitted); see also Illinois v. Gates, 462 U.S. at 236. “[T]he duty of a reviewing court is simply to ensure that the magistrate had a substantial basis for conclud[ing] that probable cause existed.” Jones v. United States, 362 U.S. 257, 271 (1960) (internal quotation marks omitted).

II. The Presumption of Validity

Warrant affidavits are entitled to a “presumption of validity.” Franks v. Delaware, 438 U.S. 154, 171 (1978). As to a motion to suppress, “[o]nce the magistrate judge has issued a warrant, the reviewing court must give substantial deference to the magistrate’s probable cause determination. As the Supreme Court has long held, after-the-fact scrutiny by courts of the sufficiency of an affidavit should not take the form of de novo review.” United States v. Davis, No. 17-CR-615 (JMA), 2021 WL 826261, at *5 (E.D.N.Y. Mar. 3, 2021).

Under the Supreme Court’s framework in Franks v. Delaware, to obtain a hearing based on allegations of a search warrant affiant’s deliberately misleading and recklessly false statements, “a defendant must make *a substantial preliminary showing* that: (1) the claimed inaccuracies or omissions are the result of the affiant’s deliberate falsehood or reckless disregard for the truth; and (2) the alleged falsehoods or omissions were necessary to the judge’s probable cause finding.” 438 U.S. 154, 155-56 (1978) (emphasis added); United States v. Salameh, 152

F.3d 88, 113 (2d Cir. 1998) (internal quotation marks omitted); see also United States v. Awadallah, 349 F.3d 42, 64 (2d Cir. 2003). The Supreme Court explained the limited circumstances where such a hearing is required in Franks:

to mandate an evidentiary hearing, the challenger's attack must be more than conclusory and must be supported by more than a mere desire to cross examine. There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof . . . Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient.

438 U.S. at 171.

A defendant seeking to make the first required showing of an intentional or reckless misstatement or omission must show more than inadvertent error. “[E]very statement in a written affidavit does not have to be true,” United States v. Martin, 426 F.3d 68, 73 (2d Cir. 2005), and “the mere intent to exclude information is insufficient...[because] every decision not to include certain information in the affidavit is intentional insofar as it is made knowingly...An affiant cannot be expected to include in an affidavit every piece of information gathered in the course of an investigation.” Awadallah, 349 F.3d at 67-68 (internal quotation marks omitted). “To prove reckless disregard for the truth,” a defendant must “prove that the affiant in fact entertained serious doubts as to the truth of his allegations.” Id. (quoting United States v. Whitley, 249 F.3d 614, 621 (7th Cir. 2001)).

The moving defendant must also prove that any misstatements or omissions alleged were material. To determine if the false information was material, i.e., “necessary to the issuing judge’s probable cause determination . . . a court should disregard the allegedly false statements and determine whether the remaining portions of the affidavit would support probable cause to issue the warrant.” United States v. Canfield 212 F.3d 713, 718 (2d Cir. 2000) (citing Salameh,

152 F.3d at 113). “If the corrected affidavit supports probable cause, the inaccuracies were not material to the probable cause determination and suppression is inappropriate. Id. (quoting United States v. Ferguson, 758 F.2d 843, 848 (2d Cir. 1985)). Likewise, if the omitted material had been included in the affidavit and the affidavit would still establish probable cause, the omissions were not material to the probable cause determination and suppression is inappropriate. See United States v. Rajaratnam, 719 F.3d 139, 146 (2d Cir. 2013). “Omissions are not subject to the same high level of scrutiny as misstatements.” United States v. Rivera, 750 F. Supp. 614, 617 (S.D.N.Y. 1990). As the Fourth Circuit has written: “the affirmative inclusion of false information in an affidavit is more likely to present a question of impermissible official conduct than a failure to include a matter that might be construed as exculpatory.” United States v. Colkley, 899 F.2d 297, 301 (4th Cir.1990). “[F]acts omitted from a warrant affidavit are not material unless they cast doubt on the existence of probable cause . . . The omitted information and the information in the affidavit must be considered as a whole in determining if probable cause continues to exist.” United States v. Marin–Buitrago, 734 F.2d 889, 895 (2d Cir. 1984) (citations omitted); see United States v. Zagari, 111 F.3d 307, 322 (2d Cir. 1985) (no Franks hearing required where special agent, relying in part on an informant, did not reveal impeachment material that had a potential bearing on the informant’s credibility).

III. Particularity and Breadth

The particularity requirement of the Warrants Clause, which is distinct from the probable cause requirement, “guards against general searches that leave to the unguided discretion of the officers executing the warrant the decision as to what items may be seized.” United States v. Riley, 906 F.2d 841, 844 (2d Cir. 1990); see also United States v. Clark, 638 F.3d 89, 94 (2d Cir. 2011) (“Particularity concerns frequently arise in circumstances where the

description in the warrant of the place to be searched is so vague that it fails reasonably to alert executing officers to the limits of their search authority[.]”). The requirement is satisfied if the warrant, including its attachments, enables the executing officer to ascertain and identify with reasonable certainty those items that the magistrate judge has authorized him or her to seize. See Groh v. Ramirez, 540 U.S. 551 (2004); United States v. Rosa, 626 F.3d 56, 58 (2d Cir. 2010).

To satisfy the particularity requirement, the crime or crimes under investigation generally should be apparent from the face of the warrant. United States v. Galpin, 720 F.3d 436, 445 (2d Cir. 2013) (“[A] warrant must identify the specific offense for which the police have established probable cause.”); United States v. Vilar, No. 305-CR-621 (KMK), 2007 WL 1075041, at *22 (S.D.N.Y. 2007) (“warrants are generally found to be insufficiently particular where ‘nothing on the face of the warrant tells the searching officers for what crime the search is being undertaken’”) (quoting United States v. George, 975 F.2d 72, 76 (2d Cir. 1992)). In this regard, however, a warrant that calls for seizure of “all evidence” of a given crime or crimes is sufficiently particular if it offers a list of illustrative items. See Riley, 906 F.2d at 844-45 (warrant containing list of illustrative items to seize was sufficiently particular notwithstanding provision allowing, as well, seizure of “other items that constitute evidence of the offenses” identified); United States v. Young, 745 F.2d 733, 759-60 (2d Cir. 1984) (warrant allowing seizure of listed items plus other evidence of the crimes specified was sufficiently particular); United States v. Lustyik, 57 F. Supp. 3d 213, 227-28 (S.D.N.Y. 2014) (warrant permitting seizure of all “evidence, fruits, or instrumentalities” of specified crimes was sufficiently particular because it contained “an illustrative list of items to be seized,” even though illustrative list was preceded by phrase “including but not limited to”); United States v. Jacobson, 4 F. Supp.

2d 515, 524 (E.D.N.Y. 2014) (“The reference to particular offenses and the use of an illustrative list of items to seize sufficiently particularized the warrants.”).

The broader the crime or crimes under investigation, the broader the categories of documents and records that may properly be seized. See, e.g., Jacobson, 4 F. Supp. 2d at 522 (breadth of warrant, which contained no timeframe limitation, was justified because “the crimes under investigation were complex and concerned a long period of time, not simply one or two dates of criminal activity”); United States v. Levy, No. 11-CR-62 (PAC), 2013 WL 664712, at *8 (S.D.N.Y. 2013) (in pump-and-dump case, broad warrant with no timeframe limitation was justified by breadth and complexity of fraud described in underlying affidavit); United States v. Dupree, 781 F. Supp. 2d 115, 149 (E.D.N.Y. 2011) (“The nature of the crime . . . may require a broad search,” such as where “complex financial crimes are alleged”); United States v. Hernandez, No. 09-CR-625 (HB), 2010 WL 26544, at *9 (S.D.N.Y. 2010) (broad warrant with no timeframe limitation justified by complexity of investigation); United States v. Cohan, 628 F. Supp. 2d 355, 362 (E.D.N.Y. 2009) (“the degree to which a warrant must state its terms with particularity varies inversely with complexity of the criminal activity investigated”) (quotation marks, citation, and alteration omitted).

Indeed, where there is probable cause to believe that a business under investigation is “‘pervaded’ or ‘permeated’ with fraud, broad language used in a search warrant will not offend the particularity requirement.” United States v. D’Amico, 734 F. Supp. 2d 321, 360 (S.D.N.Y. 2010) (emphasis added) (quoting U.S. Postal Serv. v. C.E.C. Servs., 869 F.2d 184, 187 (2d Cir. 1989)); United States v. Feng Ling Liu, No. 12-CR-934 (RA), 2014 WL 101672, at *7 (S.D.N.Y. 2014) (applying “all records” doctrine to uphold warrant against particularity and overbreadth challenges); Hernandez, 2010 WL 26544, at *10 (same); United

States v. Bowen, 689 F. Supp. 2d 675, 683 (S.D.N.Y. 2010) (“The all records exception allows for the seizure of all of an enterprise's records when the enterprise is primarily engaged in unlawful activity and sufficient evidence is presented of the pervasiveness of that unlawful activity within the enterprise.”); United States v. Abboud, 438 F.3d 554, 575 (6th Cir. 2006) (“In a business fraud case, the authorization to search for general business records is not overbroad.”). In such a case, “it is not necessary that the affidavit supporting the search warrant set forth specific factual evidence demonstrating that every part of the enterprise in question is engaged in fraud.” United States v. Burke, 718 F. Supp. 1130, 1139 (S.D.N.Y. 1989); Feng Ling Liu, 2014 WL 101672, at *7. “Rather, the affidavit need contain only sufficient factual evidence of fraudulent activity from which a magistrate could infer that those activities are ‘just the tip of the iceberg.’” Burke, 718 F. Supp. at 1139 (citation omitted).

IV. Good Faith Exception to the Exclusionary Rule

Even if a warrant lacks probable cause or particularity, or is overbroad, “[t]he fact that a Fourth Amendment violation occurred . . . does not necessarily mean that the exclusionary rule applies.” Herring v. United States, 555 U.S. 135, 140 (2009). In fact, exclusion should be a “last resort” rather than a “first impulse.” Id. Thus, suppression will not be warranted where the evidence at issue was “obtained in objectively reasonable reliance on a subsequently invalidated search warrant.” United States v. Leon, 468 U.S. 897, 922 (1984).

Although the burden is on the government to establish good faith, “[searches pursuant to a warrant will rarely require any deep inquiry into reasonableness, for a warrant issued by a magistrate normally suffices to establish that a law enforcement officer has acted in good faith in conducting the search.” Id. Accordingly, in light of this exception, “[m]ost searches will be upheld.” United States v. Rickard, 534 F. App’x 35, 37 (2d Cir. 2013)

(summary order). Only if one of the following circumstances obtains will the searching officers' good faith not have been established:

- (1) where the issuing magistrate has been knowingly misled; (2) where the issuing magistrate wholly abandoned his or her judicial role; (3) where the application is so lacking in indicia of probable cause as to render reliance upon it unreasonable; and (4) where the warrant is so facially deficient that reliance upon it is unreasonable.

Clark, 638 F.3d at 100 (quotation marks and citations omitted). The “so lacking in indicia of probable cause” concern “most frequently arises when affidavits are bare bones, i.e., totally devoid of factual circumstances to support conclusory allegations.” Id. at 103. “At the opposite end of the spectrum are cases in which a defective warrant issued based on an affidavit providing detailed factual allegations in support of probable cause.” Id. “Such cases almost invariably demonstrate reasonable reliance.” Id.

Finally, even if a court finds that the searching officers' reliance on the warrant was unreasonable for one or more of the reasons identified above, suppression still will not be warranted if there is an absence of deliberate, culpable conduct: “To trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system.”

Herring, 555 U.S. at 144; see also Rosa, 626 F.3d at 66 (emphasizing that suppression will not be warranted, even if standards for overcoming qualified immunity are met, absent evidence of deliberate and culpable behavior by law enforcement agents).

ARGUMENT

Defendant Gentile argues that (1) the Warrants fail to adequately “specify the premises to be searched, the target offenses for which they were obtained, and the items that were intended to be seized as evidence, fruits, or instrumentalities of those inadequately alleged

target offenses”; (2) the underlying affidavits contain knowingly false and misleading information; and (3) the government failed to execute the warrants properly. None of these arguments have merit, and the Motion should be denied.

I. The Affidavits Were Not False or Misleading and No *Franks* Hearing is Warranted

Defendant Gentile cannot and does not make the requisite showing for suppression or a Franks hearing. Indeed, his allegations of “deliberate falsehood and reckless disregard for truth”—the standard for such relief—are largely semantic and predicated on critiques of the government’s accounting methodology,⁵ interpretations of marketing materials and the suitability of disclaimers,⁶ and the completeness of GPB’s own financial and business records.⁷ Gentile invites this Court to reinvestigate the defendant’s offense conduct and comb through over 500 pages of exhibits in order to reach the conclusion he advocates. The Court should deny this invitation and the Motion on these grounds.

The defendant fails to address the first prong of the Franks test at all other than in the most conclusory way, and the Warrant affidavits themselves are candid in stating that they are “being submitted for the limited purpose of establishing probable cause” and do not set forth all of the affiants’ knowledge about the investigation or “all the facts and circumstances of which [the affiant] is aware.” All omissions of information in the affidavits are made “knowingly” in the sense that affiants do not include every detail of which they are aware— this does not render

⁵ “The Government [has never] articulated its understanding of the process by which GPB calculated ‘cash flow from operations.’” Def. Mot., pp. 19-20

⁶ “Affidavits fail to include the memoranda’s myriad critical disclosures adjacent to the ones cited.” Def. Mot., p. 19.

⁷ “Affidavits fail, however, to also inform the Magistrate Judges that [GPB spreadsheets regarding the coverage ratio for distribution payments] were maintained to track internal financials only, were often incomplete, and did not even purport to reflect final financial information, let alone audited financial information.” Def. Mot., p. 22.

them “omissions that are designed to mislead, or that are made in reckless disregard of whether they would mislead” as Franks requires. Awadallah, 349 F.3d at 67-68 (internal quotation marks omitted). Indeed, “omissions are not subject to the same high level of scrutiny as misstatements,” United States v. Rivera, 750 F. Supp. 614, 617 (S.D.N.Y. 1990), and an affiant “does not necessarily act with reckless disregard for the truth simply because he or she omits certain evidence that a reviewing court, in its judgment, [may] consider to be clearly critical.” Rajaratnam, 719 F.3d at 154 (internal quotation marks omitted). The fact that the defendant’s arguments about the inaccuracy of the government’s conclusions requires the Court to adopt alternate definitions of industry terms or analyze of hundreds of pages of bank records undercuts their argument that any purportedly false or omitted information was done deliberately or recklessly, as Franks requires.

Nor can the defendant satisfy the second prong of Franks regarding materiality. Notably, the defendant mentions the fraudulent performance guarantees only in passing,⁸ disregards the blatantly false statements about GPB’s past performance in marketing materials, and completely ignores the fact that “during the investigation, agents have interviewed a number of current and former employees of GPB, as well as members of the company that operates a number of GPB owned automobile dealerships. Those individuals stated that high-level GPB employees, including Gentile and Schneider, frequently discussed the fact that, contrary to GPB’s representations to investors and potential investors, that GPB’s distributions to investors were not derived from business operations of GPB-held companies.” Exhibit A at p. 14, Exhibit

⁸ Circularly, the defendant disputes the claim that “GPB Automotive fund paid its distributions using investor funds every year since 2015,” Def. Mot. at p. 6, and cites “the 2015 audited financial statements for GPB Automotive,” which were inflated by a fraudulent performance guarantee, as the basis for the government’s “factual misrepresentations.”

B at p. 14.

Regardless, any inaccuracies or omissions in the affidavits were hardly intentionally or recklessly misleading, and certainly not material when viewing the totality of the respective affidavits. The defendant is free to employ these arguments at trial, but they are unpersuasive in this context.

II. The Warrants Satisfy the Particularity Requirement

The Warrants are sufficiently particularized and not overbroad, considering the crimes being investigated and the probable cause supporting the searches. As the Second Circuit has recognized, warrants are often framed as permitting seizure of any and all evidence of specified crimes, “including but not limited to” illustrative categories of documents and records. Courts routinely uphold such warrants against particularity challenges, notwithstanding the apparent blanket permission to seize “all evidence,” reasoning that the illustrative list, coupled with the reference to the crimes of which evidence is sought, supplies sufficiently limiting guidance. See, e.g., Riley, 906 F.2d at 843-45; Young, 745 F.2d at 759-60; Lustyik, 57 F. Supp. 3d at 227-28 (warrant permitting seizure of all “evidence, fruits, or instrumentalities” of specified crimes was sufficiently particular because it contained “an illustrative list of items to be seized,” even though illustrative list was preceded by phrase “including but not limited to”); Jacobson, 4 F. Supp. 2d at 524 (upholding warrant for “[a]ny and all records, data and correspondence constituting evidence, fruits and instrumentalities of” specified crimes, “in any form wherever that they may be stored or found including, but not limited to” specified categories); cf. United States v. Buck, 813 F.2d 588, 591 (2d Cir. 1987) (warrant that permitted seizure of “any papers, things or property of any kind relating to” specified crime was insufficiently particular because unaccompanied by an illustrative list).

Accordingly, the affidavits' showing of probable cause, the references to the crimes under investigation, the clear time limitation, the description of the premises to be searched and the list of illustrative evidence sought makes the Warrants sufficiently particular. See United States v. DiScala, 14-CR-399 (ENV), 2018 WL 1187394, *16 (E.D.N.Y. March 6, 2018) (warrant sufficiently particular where it "limited all searches to specified crimes: evidence, fruits and instrumentalities of violations of 18 U.S.C. §§ 371, 1341, 1343, and 1349, as well as 15 U.S.C. §§ 78j(b) and 78ff" and contained time limitations, descriptions of premises and illustrative list of possible items).

III. Gentile Had No Reasonable Expectation of Privacy

Gentile's motion must also be denied because he had no reasonable expectation of privacy in the digital evidence seized via the challenged Warrants. While the determination of an individual's reasonable expectation of privacy is a fact specific inquiry, "[c]ourts have routinely found that employees have no reasonable expectation of privacy in their workplace computers where the employees are informed that they will be monitored." Williams v. Rosenblatt Secs. Inc., 136 F. Supp. 3d, 593, 607 (S.D.N.Y. 2015) (internal quotation marks omitted); see also United States v. Simons, 206 F.3d 392, 398 (4th Cir. 2000) (no reasonable expectation of privacy where employee was aware that company was overseeing his internet use); Muick v. Glenayre Electronics, 280 F.3d 741, 743 (7th Cir. 2002) (no reasonable expectation of privacy in employer-furnished laptop where employer announced it could inspect the laptop); United States v. Angevine, 281 F.3d 1130, 1134-35 (10th Cir. 2002) (no reasonable expectation of privacy in employer-issued laptop computer). Courts have often weighed four factors in assessing an employee's reasonable expectation of privacy in a work computer or email account:

(1) does the corporation maintain a policy banning personal or other objectionable use, (2) does the company monitor the use of the employee's computer or e-mail, (3) do the third parties have a right of access to the computer or e-mails, and (4) did the corporation notify the employee, or was the employee aware, of the use and monitoring policies?

United States v. Finazzo, No. 10-CR-457 (RRM), 2013 WL 619572, at *7 (E.D.N.Y. Feb. 19, 2013), aff'd, 682 F. App'x, 6, 16 (2d Cir. 2017) (citing In re Reserve Fund Secs. & Deriv. Litig., 275 F.R.D. 154, 160 (S.D.N.Y. 2011) and In re Asia Global Crossing, LTD., 322 B.R. 247, 257 (Bankr. S.D.N.Y. 2005)).

GPB's corporate policy reflected that its employees lacked any expectation of privacy in the company's computer systems or email accounts, including personal non-work-related messages and all data stored on company computers. See GPB Capital Employee Handbook at 17-18 (Nov. 1, 2014) attached hereto as Exhibit C. Specifically, the employee handbook provides that employees were only to use GPB's technology resources for "incidental personal uses," and that all data and information stored on the company's servers, including personal messages, are company property. Id. at 17. Employees are expressly informed that they "have no right of privacy and should have no expectation of privacy with respect to any messages or information created, maintained, sent or received" on GPB computers. Id.

Moreover, as Gentile was undoubtedly aware, GPB was an SEC-registered investment adviser, making it subject to the various rules regarding record retention and inspection by the SEC, which provide, inter alia, that all records maintained by investment advisers are subject "at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors." 15 U.S.C. § 80b-4 (emphasis added). Records is defined extremely broadly to include "accounts, correspondence,

memorandums, tapes, discs, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language;” 15 U.S.C. § 78c, which certainly encompasses the emails and other electronic documents seized in connection with this case.

Thus, under the Global Crossing test, a third party did have a right of access.

Given these facts, Gentile can have had no reasonable expectation of privacy in the electronic evidence obtained from GPB’s computer system. See e.g., United States v. Nordlicht, No. 16-CR-640 (BMC), 2018 WL 705548, at *3-5 (E.D.N.Y. Feb. 2, 2018) (finding employees of SEC registered investment adviser, including founder and principal of hedge fund, had no expectation of privacy where, like here, the employee manual expressly told employees they had none, even though there was no evidence employee email was actually monitored); United States v. Finazzo, No. 10-CR-457 RRM RML, 2013 WL 619572, at *11 (E.D.N.Y. Feb. 19, 2013) (holding that attorney-client privilege was waived where employee communicated on company email with attorney as he had no reasonable expectation of privacy); In re Rsrv. Fund Sec. & Derivative Litig., 275 F.R.D. 154, 164 (S.D.N.Y. 2011) (holding that marital privilege was waived where employee communicated on company email with wife).

Given that Gentile was principal of GPB which maintained a policy expressly providing that employees had no expectation of privacy in its computer systems, and given that the SEC had the right to inspect any and all of GPB’s documents at any time, he had no reasonable expectation of privacy, in which case his motion to challenge the Warrants must fail.

IV. The Good Faith Doctrine Would Apply to Preclude Suppression

Even assuming arguendo that the Warrants were either insufficiently particularized or overbroad, and that Gentile had a reasonable expectation of privacy, the good faith doctrine would apply to preclude suppression.

The Affidavits were detailed, predicated on information gleaned from a variety of sources from both criminal and civil investigations into GPB, and reviewed and authorized by judges in two districts. Certainly, a law enforcement agent would reasonably have believed that probable cause supported seizure of the documents and records described in the Warrants. See, e.g., Clark, 638 F.3d at 103 (cases involving a “defective warrant issued based on an affidavit providing detailed factual allegations in support of probable cause” “almost invariably demonstrate reasonable reliance”); Feng Ling Liu, 2014 WL 101672, at *8-9 (even if “all records” warrant might have been overbroad, agents reasonably relied on broad statement of probable cause in concluding such a warrant was appropriate); Levy, 2013 WL 664712, at *10 (“Given the nature of the complex financial crimes and conspiracy alleged, executing officers would reasonably expect to find fairly broad categories of financial documents to be seized.”); Bowen, 689 F. Supp. 2d at 684 (applying good faith exception in alternative to finding that “all records” doctrine applied); Hernandez, 2010 WL 26544, at *12 (where case was one involving complex fraud, “a government agent would likely expect to find fairly broad categories” of documents to be seized described in the warrant). This was not a case in which any problem with particularization or probable cause to search and seize documents, including GPB’s computers and servers, would have been apparent to a reasonable agent.

Thus, good faith execution of the Warrants applies on these facts. Nothing in the warrant application was materially false or recklessly misleading; there is nothing to suggest that the Magistrate Judges abdicated their judicial role in their consideration of the applications; and, given the broad scope of the scheme detailed in the supporting applications, and the complex nature of securities fraud generally, the agents most assuredly would have reasonably presumed the warrant to be valid.

V. Execution Was Timely and Proper Safeguards Protected Privileged Information

With regard to electronic storage media or electronically stored information Rule 41(e)(2)(B) provides that the “time for executing the warrant . . . refers to the seizure or on-site copying of the media or information, and not to any later off-site copying or review.” In arguing that the government “indisputably seized documents that it was not entitled to seize,” Def. Mot. p. 25, defendant Gentile completely ignores the generally accepted “two-step” process contemplated by Rule 41(e)(2)(B) that is explicitly described in the Warrants.

Courts have “routinely upheld the seizure and copying of hard drives and other storage devices in order to effectuate a proper search for the categories of documents or files listed in a warrant.”

In the Matter of a Warrant for all Content and Other Information Associated with the Email

Account xxxxx@gmail.com Maintained at a Premises Controlled by Google, Inc., 33 F.Supp.3d

386, 392 (S.D.N.Y. 2014) (collecting cases). This is because “[i]n the case of electronic evidence, which typically consists of enormous amounts of undifferentiated information and documents . . . a search for documents or files responsive to a warrant cannot possibly be accomplished during an on-site search.” Id.; accord United States v. Metter, 860 F.Supp.2d 205, 214 (E.D.N.Y. 2012) (“off-site imaging is a necessity of the digital era”). As the Second Circuit has recognized, “[i]t is comparatively commonplace for files on a computer hard drive to be so intermingled that they cannot feasibly be sorted on site,” and thus, “the creation of mirror images for offsite review is constitutionally permissible in most instances, even if wholesale removal of tangible papers would not be.” United States v. Ganius, 755 F.3d 125, 135 (2d Cir. 2014). As described above, this is precisely what occurred here.

Nor is it clear what prejudice defendant Gentile has suffered as a result of any perceived delay. Indeed, there was no delay at all, as the government’s initial disclosure was

approximately two months after arrest and indictment. This timeframe is eminently reasonable given the scope of the conduct being investigated and volume of materials at issue, and the defendant cites no law to the contrary. See United States v. Sosa, 379 F. Supp. 3d 217, 222 (S.D.N.Y. 2019) (finding searches to be “within the bounds of reason” when they were completed “nearly three months prior to defendant’s scheduled trial,” declining to suppress evidence on account of the pace at which they were performed, and noting “the most logical (and fairly obvious) explanation [for delay] is one of resource allocation”). Similarly, the defendant’s claim that the government has improperly retained nonresponsive materials, Def. Mot. pp. 28-29, is nonsensical and moot—on August 27, 2021, the government disclosed the approximately 2,000 responsive items to the defense that could constitute trial evidence or exhibits. Suppression of the remaining items would be functionally irrelevant, and the assertion that the government intends to conduct continuous searches of the entire dataset without proper authorization is simply false.

The government has also taken appropriate steps to safeguard the highly tenuous privilege claims of defendants Gentile and Schneider while executing the Warrants and making subsequent disclosures. As outlined herein and in prior filings related to the Rule 502(d) litigation, the government promptly isolated potentially privileged materials from the prosecution team using identifiers provided by GPB counsel.

Defendant Gentile’s attempt to analogize the instant case to Judge Irizarry’s decision in Metter is misplaced. In Metter, Judge Irizarry suppressed evidence seized pursuant to four separate searches upon finding that those searches were executed in an unreasonable manner. 860 F. Supp. 2d 205, 216. Finding “nothing problematic” with a warrant that authorized the seizure and imaging of 65 computer hard drives and the defendant’s email

account, the issue in Metter was that the government “then retain[ed] that data with no plans whatsoever to begin review of that data to determine whether any irrelevant, personal information was improperly seized.” Id. at 215. Specifically, as of 15 months after the searches, the court emphasized, the government had done nothing with respect to the imaged electronic evidence from the three premises searches and the personal email account search returns to identify and segregate evidence that fell outside the scope of the search warrants. See id. at 210-11, 214-16 (concluding “[t]he government’s retention of all imaged electronic documents, including personal emails, without any review whatsoever to determine not only their relevance to [the] case, but also to determine whether any recognized legal privileges attached to them, is unreasonable and disturbing,” and that the good faith exception did not apply, inter alia, because the government “failed to commence the review, despite repeated requests from defense counsel and directions from the Court to do so.”).

The extreme facts of Metter are simply not present here. As an initial matter, Metter involved electronic evidence seized from the defendant’s home and his personal email account—unlike the evidence seized from GPB’s offices in this case, as to which a GPB employee could have no reasonable expectation of privacy. Additionally, here, as described previously, the government took a number of steps to cull the seized electronic evidence, including using search terms and a document-by-document review of a subset of materials; identified responsive documents to the defense; and segregated potentially privileged materials in consultation with GPB attorneys prior to beginning any review. See United States v. Zottola, 18-CR-609 (HG), 2022 WL 3682222 *4 (E.D.N.Y. August 25, 2022) (distinguishing Metter from situation where “after executing the warrants, the government narrowed its review” of “19 electronic devices seized, 14 were imaged and reviewed for responsiveness to the warrants.

EXHIBIT A

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JMK:MSA
F.# 2018R01064

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE APPLICATION OF
THE UNITED STATES OF AMERICA FOR A
SEARCH WARRANT FOR THE PREMISES
KNOWN AND DESCRIBED AS THE
COMPUTER SERVER AND ANY LAPTOP
COMPUTER USED BY DAVID GENTILE,
MICHAEL BARBAGALLO, MELLISSA
AURIGEMMA, AND OTHERS, STORED INSIDE
THE OFFICES OF GPB CAPITAL HOLDINGS,
LOCATED ON THE FIRST AND SECOND
FLOORS OF GENTILE PISMENY AND
BRENGEL, 1581 FRANKLIN AVENUE,
GARDEN CITY, NEW YORK, AND INSIDE THE
LOCKED AND CLOSED CONTAINERS OR
ITEMS CONTAINED THEREIN

TO BE FILED UNDER SEAL

AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
SEARCH WARRANTS

-----X

SOUTHERN DISTRICT OF NEW YORK, SS:

I, Aristotelis Kougemitros, being duly sworn, depose and state:

I. Introduction

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), duly appointed by law and acting as such.

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the premises known as THE COMPUTER SERVER AND ANY LAPTOP COMPUTER USED BY DAVID GENTILE, MICHAEL BARBAGALLO OR MELLISSA AURIGEMMA, STORED INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE FIRST AND SECOND FLOORS OF

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GENTILE PISMENY AND BRENGEL, 1581 FRANKLIN AVENUE, GARDEN CITY, NEW YORK (the “LONG ISLAND SUBJECT PREMISES”), AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN, which is more particularly described in Attachment A, for the things described in Attachment B.

3. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been for over 7 years. I am responsible for conducting and assisting in investigations into the activities of individuals and criminal groups responsible for public corruption, white-collar fraud, financial crime, and money laundering. I have investigated and otherwise participated in numerous matters during the course of which I have conducted physical surveillance, interviewed witnesses, executed court-authorized search warrants, reviewed and analyzed documentary evidence such as business records and financial records, and used other investigative techniques to secure relevant information.

4. I have personally participated in the investigation of the offenses discussed below. I am familiar with the facts and circumstances of this investigation from, among other: (a) my personal participation in this investigation, (b) reports made to me by other law enforcement authorities and members of the United States Securities and Exchange Commission (“SEC”), (c) interviews with witnesses and victims, (d) review of emails, text messages, private placement memoranda, solicitation documents, audited financial statements, corporate agreements, bank records, and other documents and (e) consensual controlled recordings between confidential informants and subjects of the investigation. Except where otherwise noted, all conversations, communications, and documents described in this Affidavit are set forth in part and in substance only. Because this Affidavit is being submitted for the limited purpose of establishing probable

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cause to issue the requested search warrants, I have not set forth a description of all the facts and circumstances of which I am aware.

5. The FBI is investigating violations of criminal law by the managers, principal partners and employees of GPB Capital Holdings, LLC, the management company of various investment funds, including GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP (collectively “GPB”), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively “Ascendant”). GPB manages over \$1.4 billion in assets. Despite distributing marketing materials representing that GPB pays investors an 8% annual return funded completely by investment profits, in reality GPB uses the capital contributions of some investors to pay the annual returns to other investors. GPB, therefore, operates like a “Ponzi scheme,” in that returns to investors come from money invested by later investors, rather than from the profitability of the investments themselves.

6. As set forth below, I submit that there is probable cause to believe that presently contained within the LONG ISLAND SUBJECT PREMISES is evidence, fruits and instrumentalities of criminal offenses, to wit: securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; obstruction of justice, in violation of Title 18, United States Code, Section 1512(c)(2); unauthorized computer access, in violation of Title 18, United States Code, Section 1030; unauthorized disclosure of information, in violation of Title 18, United States Code, Section 1905; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering

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conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code) (collectively, the “Subject Offenses”).

7. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

II. Probable Cause

8. The facts set forth below establish probable cause to believe that from at least 2013 to the present, in the Southern District of New York, the Eastern District of New York and elsewhere, David Gentile, Jeffrey Schneider, other managers and employees of GPB, together with others, engaged in a scheme to defraud investors and potential investors in GPB through material misrepresentations and omissions about, among other things, the performance, liquidity, ownership, control, and use of investments in GPB’s funds.

A. The Relevant Entities

9. GPB Capital Holdings LLC (“GPB Capital Holdings”) is an investment and asset management company with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. In promotional materials I have reviewed, GPB Capital Holdings represents that it identifies and purchases profitable assets, such as automotive dealerships and waste removal companies, which it operates and sells at a profit. GPB Capital Holdings, a registered financial adviser, is the general partner and investment manager for at least seven limited partnership funds that invest funds on behalf of limited partner-investors, purportedly according to the terms of private placement memoranda (“PPMs”). The memoranda all state, in sum and substance, that the GPB

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funds expect to distribute 8% of each investors' funds annually. Currently, GPB purportedly manages over \$1.8 billion in assets.

10. GPB Holdings I, LP, formed on or about March 19, 2013, was an investment fund under the management of GPB Capital Holdings with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. GPB Holdings I raised money from limited partner-investors through PPMs representing, in sum and substance, that the company was formed to acquire and manage private automotive retail, information technology and healthcare companies.

11. GPB Holdings II, LP, formed on or about March 19, 2013, was an investment fund under the management of GPB Capital Holdings with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. In PPMs, GPB Holdings II variously represented, in substance, that the fund generally intended to invest assets in automotive retail, "managed IT services" and life sciences businesses.

12. GPB Automotive Portfolio, LP, formed on or about May 27, 2013, was an investment fund under the management of GPB Capital Holdings. GPB Automotive Portfolio raised money from limited partner-investors through PPMs representing, in sum and substance, that the company was formed to acquire, manage and re-sell automobile dealerships.

13. GPB Holdings Automotive, LLC, GPB Portfolio Automotive, LLC, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP and GPB Holdings

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III, LP are additional funds advised and managed by GPB Capital Holdings, which raise funds from limited partner-investors and purchase and manage assets under their respective purviews.

14. Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively, “Ascendant”) are marketing firms that sell investments in GPB through a network of broker-dealers throughout the United States. Ascendant Capital, LLC is an office of, and offers securities through, Axiom Capital Management, Inc. GPB represented in various PPMs that Ascendant and GPB are affiliates. Ascendant operates from offices in Austin, Texas and 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES.

B. The Relevant Individuals

15. David Gentile is one of the founders of GPB. Directly or through wholly-controlled entities, Gentile owns 100% of GPB Capital Holdings.

16. Jeffrey Schneider is the sole owner of Ascendant Capital LLC and, together with Gentile and another partner, an owner of Ascendant Alternative Strategies LLC.

C. The Fraudulent Scheme

Overview

17. According to partnership agreements, in or about 2013, David Gentile began creating GPB entities as investment funds. According to a former high-ranking employee at GPB (“E-1”), at approximately the same time, Gentile and Schneider agreed that Schneider would found Ascendant to raise money for GPB. The investments were sold wholesale to Ascendant, which used a network of broker-dealers recruited by Schneider to sell GPB investments directly to investors.

18. In PPMs, due diligence materials supplied to broker-dealers who sold investments in GPB funds, and marketing materials that broker-dealers shared with investors,

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GPB emphasized that a main feature of its investments was a targeted annual distribution to limited partner-investors of 8% of invested capital. In many of those materials, the funds represented that the distributions were paid fully from the profits of the companies that the various funds owned, such as automobile dealerships. As set forth more fully below, those representations were false and materially misleading. In reality, businesses that the funds owned did not produce sufficient profits to cover the distributions, and GPB funded the distributions with capital that had been invested by limited partner-investors.

19. In the meantime, Gentile, Schneider and other high-ranking employees of GPB and Ascendant earned millions through high fees charged to limited-partner investors and through outright misappropriation of investor funds. Currently, the funds are on the verge of default. In 2018, the auditors of one of GPB's funds, GPB Automotive Portfolio, refused to certify the fund's financial statements, triggering an event of default for many of the loans either the fund or the companies it owned had taken out for operations and acquisitions in the normal course of business. The fund is currently in negotiations with several banks to avert being declared in default. Furthermore, in December 2018, the funds suspended all distributions to investors, and issued a letter to investors admitting that it had previously used capital invested by limited partner-investors to make distributions.

20. For instance, marketing materials dated on or about July 4, 2014 reflect typical of GPB and Ascendant's representations to investors and potential investors. In those materials, GPB represented that "the distribution of an 8% per annum and all special distributions are fully covered with funds from operations." The same notes emphasized, "[t]he Fund is differentiated from its alternatives in many very important ways, but we believe the following to be of utmost importance: 100% covered yield with operating income paying an 8%

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distribution plus all special distributions, paid at least twice a year.” The marketing materials referred to PPMs that were offered on request to potential investors. According to E-1 and another high-ranking former GPB employee (“E-2”), Schneider was the primary author of the PPMs for all of the funds. The PPMs contained various disclosures concerning the source of the funds’ anticipated 8% distribution.

21. In reality, based on a review of audited financial statements for GPB for 2014, GPB collectively paid over \$2 million more in distributions than they earned from the operations of their assets. Contrary to the representations in the marketing materials, the \$2 million in distributions came from capital invested by limited-partner investors. Indeed, for example, GPB Automotive Portfolio, LP, has paid its distributions using investor funds every year since 2015.

22. A comparison of statements in PPMs, marketing, and due diligence materials with the funds’ audited financial statements reflects numerous similar false statements and misrepresentations, some of which are summarized below.

GPB Capital Holdings

23. In materials that GPB prepared for potential investors, GPB represented, in sum and substance, that distributions to investors were funded through the operations of assets that its funds acquired. For example, in a PowerPoint presentation dated June 3, 2014, GPB entity GPB Capital Holdings, LLC wrote, “Annual Dividend – 8% paid 100% funds from operation.” The same presentation further stated, “GPB Capital – 2013/14 Update...Current distribution 8% per annum sourced only from FFO [funds from operations].”

24. Furthermore, on or about January 30, 2015, David Gentile used his GPB email account to send an email to a broker-dealer that sold investments in GPB, attaching an

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announcement for a webinar presentation by GPB Capital Holdings, with the subject “GPB Capital Holdings' Funds- Webinar - Q4 2014 Results.” The body of the announcement contained the statement “GPB Fund Highlights: 2014 distribution of 10.5% fully covered with Funds From Operations.” The announcement also listed GPB’s email account “info@gpb-cap.com” and its website “www.gpb-cap.com” as contact information for potential investors.

25. In its audited financial statements for 2014, however, GPB Capital Holdings represented that it paid approximately \$2,214,778 in distributions, but received income of only approximately \$23,403. GPB Capital Holdings, therefore, paid approximately \$2,191,375 more in distributions than it earned from the operations of its assets.

26. In its audited financial statements for 2015, GPB Capital Holdings reported that it made approximately \$4,853,957 in distributions, but earned only approximately \$1,904,043 from the operations of its assets. GPB Capital Holdings, therefore, paid approximately \$2,949,914 more in distributions than it earned.

GPB Automotive

27. In a PPM for GPB Automotive, dated on or about February 20, 2014, GPB stated, “When GPB determines to do so after accounting for reserves and expenses or reinvestments, we will make distributions based on cash flow we have received from Dealerships.”

28. Similarly, in a PPM for GPB Automotive, dated on or about December 31, 2014, GPB wrote, “[w]hen GPB determines to do so after accounting for reserves and expenses or reinvestments, we will make distributions based on cash flow we have received from Dealerships. GPB expects the Company to make distributions of cash, if any, to the LPs

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beginning three months after their subscription at annual return rates targeted to be at least 8% (though distributions could be more, less or none at all, depending on cash flow).”

29. In its audited financial statements for 2014, GPB Automotive made approximately \$792,933 in distributions and recorded approximately \$1,011,988 in net operating income.

30. In promotional materials distributed in or about 2015, GPB Automobile wrote, “2014 Distribution – 11.5% fully covered – funds from operations.” The fund further wrote, “[t]argeted annual distribution – 8% paid – 100% funds from operations.”

31. In promotional materials circulated in 2016, GPB Automotive Portfolio wrote, “Historical Distribution – 2015 Distribution: 10%, 2014 Distribution: 11.5%.” The materials further stated, “Distribution: 80%/20% profit participation.” I am aware from my training and experience in investigating financial crimes that investment funds frequently split profits, such as dividends, by paying 80% of the profits to investors and 20% to fund managers. I believe that the statement in GPB Automobile’s promotional materials was intended to mislead investors into believing that the fund was profitable, when in 2016 it was not. Also in the materials, on a page titled “Structure,” GPB Automotive Portfolio reported, “Distributions – Based off cash flow from portfolio companies, targeted at 8.7%.”

32. Contrary to these and similar representations in the PPMs, financial statements for the fund and statements by fund employees reflect that distributions to limited partners have come from capital invested by such partners rather than cash flow from operations. For example, in its audited financial statements for 2015, GPB Automotive reported that it made approximately \$2,405,529 more in distributions than it received from operations.

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33. Furthermore, on or about September 15, 2015, GPB's Director of Fund Accounting sent an email using GPB's email system to a member of GPB's accounting staff ("E-3") with the subject "GPB Funds – Distribution account shortfall as of 9.15.15." In the email the employee wrote, "attached is the reconciliation for all transfers made from the investment accounts to the various other accounts to cover numerous cash outflows (i.e. monthly distributions, fund overhead, etc...). The employee further wrote, "Also, GPB [Automotive] is not able to cover its monthly distributions from the assets/investments it currently holds."

34. Likewise, in or about December 2016, in a PPM for GPB Automotive, GPB represented that, "while we have no present plans to do so, we could include LPs' invested capital in amounts we distribute to LPs, which may reduce the amount of capital available to acquire and operate Dealerships and make other permitted acquisitions, as well as, negatively impact the value of the LPs' investments, especially if a substantial portion of our distributions are paid from our LPs' invested capital."

35. GPB Automotive's 2016 audited financial statement, however, shows that it had continued making distributions to investors despite a massive shortfall from operations that year. Specifically, the fund's audited financial statement for 2016, reports approximately \$14,339,241 in distributions even though it suffered a net loss from operations of approximately \$7,294,002. Thus, any distributions could not have come from operations, and the funds statement in its December 2016 PPM that it had "no present plans" to pay distributions from invested capital was materially misleading.

36. Tellingly, on or about July 16, 2018, in a PPM for GPB Automotive, GPB represented that, "[p]eriodic distributions are currently and may in the future be paid out of available working capital, which include investor contributions." Indeed, the investigation has

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revealed that the GPB Automotive fund has paid its distributions using investor funds every year since 2015, despite its claims in PPMs and other marketing materials.

GPB Holdings

37. In a PPM dated on or about May 13, 2014, GPB Holdings wrote, “Distributions by Holdings will be made when determined by GPB in its sole discretion. At any time GPB may make a distribution in cash or retain and/or reinvest cash otherwise available for distributions. GPB expects Holdings to make distributions of cash, if any, to the LPs beginning three months after their subscription at annual return rates targeted to be 8% (though distributions could be more, less or none at all, depending on Holdings’ cash flow, and qualified’s distributions will be reduced by the taxes it pays at the entity level).”

38. In a PowerPoint presentation dated in or about 2015, GPB Holdings reported, “2014 Dividend Yield – 10.5% fully covered with Funds from Operations.”

39. In reality, according to the fund’s 2014 audited financial statements, that year GPB Holdings distributed approximately \$2,565,579 to investors, but earned income only of approximately \$2,498,858. GPB Holdings, therefore, used approximately \$66,721 in investor funds to make its distributions.

40. Furthermore, in the 2015 PowerPoint presentation, GPB Holdings wrote, “Targeted Annual Distribution – 8.7% Paid - 100% funds from operations.”

41. In its 2015 audited financial statements, however, GPB Holdings reported distributions of approximately \$12,345,630 and income of approximately \$12,210,192. The fund, therefore, used approximately \$135,438 in investor funds to make its distributions.

EXHIBIT A

42. In a PPM issued in or about December 2016, GPB Holdings wrote, “As of October 31, 2016, we have made aggregate distributions of \$27,669,162 to the LPs. We will make distributions of cash as it’s available.”

43. In its 2016 audited financial statements, however, GPB Holdings reported distributions of approximately \$15,845,000 and an operating loss of approximately \$9,592,000. Thus, the fund made all distributions from investors’ capital and spent approximately \$25,437,000 more than it earned from operations.

GPB Holdings II

44. On or about April 13, 2015, in the section of a PPM for GPB Holdings II titled “General Investment Risks,” GPB represented, “while we have no present plans to do so, we could include LPs’ invested capital in amounts we distribute to LPs, which would reduce an LP’s rate of return.”

45. For the period from its inception on April 13, 2015 to December 31, 2015, GPB Holdings II reported net operating income of \$645,632. During the same period, the fund reported distributions of \$197,056.

46. Similarly, on or about March 7, 2016, in a PPM for GPB Holdings II, GPB represented, “we reserve the right to return Capital Contributions to LPs as part of our distributions, though we do not presently have plans to do so.” GPB further stated in the same PPM, “while we have no present plans to do so, we could include LPs’ invested capital in amounts we distribute to LPs, which may reduce the amount of capital available to acquire and operate Portfolio Companies and make other permitted acquisitions, as well as, negatively impact the value of the LPs’ investments, especially if a substantial portion of our distributions are paid from our LPs’ invested capital.”

EXHIBIT A

47. Nonetheless, in marketing materials for investments in GPB Holdings II, dated in or about 2016, GPB falsely stated, “Targeted annual distribution – 8.7% Paid – 100% Funds From Operations.”

48. In reality, according to its 2016 financial statements, GPB Holdings II distributed approximately \$8,089,000 to investors and suffered a loss of approximately \$6,607,000 from the operations of its assets. Thus, all of its distributions were from investor capital, and the fund posted a loss of approximately \$14,696,000.

Coverage Ratios

49. During the investigation, agents have interviewed a number of current and former employees of GPB, as well as members of the company that operates a number of GPB-owned automobile dealerships. Those individuals stated that high-level GPB employees, including Gentile and Schneider, frequently discussed the fact, contrary to GPB’s representations to investors and potential investors, that GPB’s distributions to investors were not derived from business operations of GPB-held companies. In fact, Schneider told GPB employees that GPB’s goal was to fund only 75% of distributions to investors from operational revenue. Schneider and others at GPB referred to the percent of distributions derived from operational revenue as the “coverage ratio.”

50. GPB also maintained spreadsheets containing calculations of the coverage ratios for various GPB funds. For example, in a calculation done in 2015, GPB noted that GPB Holdings had a shortfall of 6% of its distributions and GPB Automotive had a shortfall of 50%.

Falsification of Performance Guarantees to Fabricate Income

51. GPB also falsified its books and records to make it appear as if it had no shortfall from operations, using “performance guarantees” and other fraudulent documents to do

EXHIBIT A

so. For instance, in 2013, GPB attempted to purchase a number of automobile dealerships from Jeffrey Lash. GPB paid the entire purchase price upfront, even though GPB could not assume ownership of the dealerships until the relevant automobile dealerships approved GPB as a franchisee. While the approval process was underway, Lash remained the owner of record of the dealerships, but agreed to turn over all of the dealerships' profits to GPB.

52. The next year, the dealerships purchased from Lash did not receive enough income from operations to cover the advertised distributions to GPB investors. To hide the shortfall, Gentile and Schnieder, together with others, manufactured back-dated "performance guarantees" that purported to require Lash to make up any shortfall. Lash informed a witness that the parties never intended to obligate Lash through the agreements, but that the agreements were intended to create the appearance of profitability, thereby leading investors to believe that the funds generated the full amount of distributions through the operations of the businesses they owned. Indeed, GPB listed approximately \$1,136,201 in performance guarantees as "income" for 2014, even though Lash has never paid the performance guarantees. The purported income from the guarantee represented approximately half of the fund's net investment income for the year. Similarly, in 2015, a back-dated performance guarantee, purportedly executed by Lash, was used to make up an income shortfall and overstated net investment income by approximately \$1,050,000. This amount represented approximately a third of net investment income for GPB Automotive for 2015. As noted above, GPB used this false information to market investments in the fund to other investors.

E. Relevant Facts Concerning the Subject Premises

53. E-2 is currently an executive at a company that is part-owned by GPB Automotive and is involved in managing all of the automobile dealerships that GPB Automotive

EXHIBIT A

owns. E-2 visits the MANHATTAN SUBJECT PREMISES regularly and, for several years, worked for GPB at the MANHATTAN SUBJECT PREMISES. I have also spoken with another executive at a company part owned by GPB Automotive (“E-3”). E-2 and E-3 explained that the MANHATTAN SUBJECT PREMISES consists of the 4th, 5th and 6th floors of a brownstone building located at 535 West 24th Street, New York, New York. The 4th floor consists of an open space with one or more conference rooms bordering portions of space. Among other offices on the 4th floor, are offices for GPB attorneys, administrative staff and Gentile. Furthermore, Gentile’s secretaries, Mike Barbagallo, Melissa Aurigemma and others, have desks assigned next to each other, across from Gentile’s office. E-2 stated that the administrative assistants take minutes of GPB meetings and notes for Gentile on laptop computers. E-2 explained that the 5th floor houses offices of accountants, analysts, and employees that conduct valuations of assets and potential assets. According to E-3, the 5th floor is largely occupied by GPB’s human resources department. E-2 and E-3 both explained that the 6th floor contains a conference room and has access to the roof, which also has a small conference room or office. E-3 stated that GENTILE uses the 6th floor office at times.

54. E-2 explained that there are no desktop computers at GPB. Instead, each employee is assigned a laptop computer, through which the employee can access GPB’s servers, where GPB’s documents are stored. E-2 further explained that GPB maintains few, if any, paper files.

55. In the course of their work at GPB, E-2 and another employee in the accounting departments of various GPB-owned entities with whom I have spoken (“E-4”) have also visited GPB’s office at the LONG ISLAND SUBJECT PREMISES, which is an office located in the office space of Gentile Pismeny and Bregel, which Gentile’s father founded and

EXHIBIT A

where Gentile worked prior to forming GPB. E-2 and E-4 stated that all of the bookkeeping for GPB funds is performed at the LONG ISLAND SUBJECT PREMISES, mostly on the Quickbooks computer program, copies of which are retained in the LONG ISLAND SUBJECT PREMISES and on GPB's server at the MANHATTAN SUBJECT PREMISES.

56. E-4, who worked in accounting for GPB-owned entities through November 2016 and has maintained contact with several GPB employees through the present, frequently visited both the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES. E-4 stated that one of Gentile's administrative assistants, Michael Barbagallo, maintains an office on the 2nd Floor of the LONG ISLAND SUBJECT PREMISES, where he performs accounting work related to GPB and Gentile's personal finances. E-4 stated that Barbagallo maintains documents and a laptop computer related to GPB in his office at the LONG ISLAND SUBJECT PREMSIES.

57. E-4 further stated that one of the principals in GPB's accounting department works on the first floor of the LONG ISLAND SUBJECT PREMISES. E-4 further stated that Kyle Brengel works on the first floor and performs accounting services for GPB Capital, creates IRS Schedule K-1s for limited partner-investors and performs tax services for GPB funds. E-4 stated that Brengel maintains documents related to GPB at his office.

58. I have also learned that Egnyte, a Mountain View, California corporation, provides GPB with servers, data storage, and web-based access to GPB's data. Only authorized GPB employees or designated information technology professionals may access the information housed on these servers. I have also learned from my review of Egnyte records that GPB maintains a backup server at Alphaserve Technologies, the ALPHASERVE SERVER, located at

EXHIBIT A

104 West 40th Street, New York, New York. I am informed by E-4 that GENTILE has an ownership interest in Alphaserve Technologies.

59. Pursuant to its investigation of GPB, on or about September 25, 2018, the SEC served GPB with a preservation notice, requiring GPB to maintain all records, including, inter alia, physical documents, emails, and files housed on GPB servers.

III. Technical Terms

60. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. *IP Address*: The Internet Protocol address (or simply “IP address”) is a unique numeric address used by computers on the Internet. An IP address looks like a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses.

b. *Internet*: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

c. *Storage medium*: A storage medium is any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

EXHIBIT A**IV. Computers, Electronic Storage and Forensic Analysis**

61. As described above and in Attachments B, respectively, this application seeks permission to search for records that might be found on the LONG ISLAND SUBJECT PREMISES, in whatever form they are found. One form in which the records might be found is data stored on a computer's hard drive, iPads or other storage media. Thus, the warrant applied for would authorize the seizure of electronic storage media or, potentially, the copying of electronically stored information, all under Rule 41(e)(2)(B).

62. *Probable cause.* I submit that if a computer or storage medium is found on the LONG ISLAND SUBJECT PREMISES, there is probable cause to believe those records will be stored on that computer or storage medium, for at least the following reasons:

a. Based on my knowledge, training, and experience, I know that computer files or remnants of such files can be recovered months or even years after they have been downloaded onto a storage medium, deleted, or viewed via the Internet. Electronic files downloaded to a storage medium can be stored for years at little or no cost. Even when files have been deleted, they can be recovered months or years later using forensic tools. This is so because when a person "deletes" a file on a computer, the data contained in the file does not actually disappear; rather, that data remains on the storage medium until it is overwritten by new data.

b. Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space—that is, in space on the storage medium that is not currently being used by an active file—for long periods of time before they are overwritten. In addition, a computer's operating system may also keep a record of deleted data in a "swap" or "recovery" file.

EXHIBIT A

c. Wholly apart from user-generated files, computer storage media—in particular, computers’ internal hard drives—contain electronic evidence of how a computer has been used, what it has been used for, and who has used it. To give a few examples, this forensic evidence can take the form of operating system configurations, artifacts from operating system or application operation, file system data structures, and virtual memory “swap” or paging files. Computer users typically do not erase or delete this evidence, because special software is typically required for that task. However, it is technically possible to delete this information.

d. Similarly, files that have been viewed via the Internet are sometimes automatically downloaded into a temporary Internet directory or “cache.”

e. Based on information from E-2, E-3, E-4 and other former GPB employees, and actual inspection of other evidence related to this investigation, such as PPMs, marketing materials, financial statements, accounting spreadsheets and other financial records, I am aware that computer equipment was used to generate, store, and print documents used in the above-described scheme. As described above, there is reason to believe that there is a computer system currently located on the LONG ISLAND SUBJECT PREMISES.

63. *Forensic evidence.* As further described in Attachment B, this application seeks permission to locate not only computer files that might serve as direct evidence of the crimes described on the warrant, but also forensic electronic evidence that establishes how computers were used, the purpose of their use, who used them, and when. There is probable cause to believe that this forensic electronic evidence will be on any storage medium in the LONG ISLAND SUBJECT PREMISES because:

EXHIBIT A

a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file). Virtual memory paging systems can leave traces of information on the storage medium that show what tasks and processes were recently active. Web browsers, e-mail programs, and chat programs store configuration information on the storage medium that can reveal information such as online nicknames and passwords. Operating systems can record additional information, such as the attachment of peripherals, the attachment of USB flash storage devices or other external storage media, and the times the computer was in use. Computer file systems can record information about the dates files that were created and the sequence in which they were created, although this information can later be falsified.

b. As explained herein, information stored within a computer and other electronic storage media may provide crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, information stored within a computer or storage media (e.g., registry information, communications, images and movies, transactional information, records of session times and durations, internet history, and anti-virus, spyware, and malware detection programs) can indicate who has used or controlled the computer or storage media. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence. The existence or absence of anti-virus, spyware, and malware detection programs may indicate whether the computer was remotely accessed, thus inculcating or exculpating the computer owner. Further, computer and storage media activity can indicate

EXHIBIT A

how and when the computer or storage media was accessed or used. For example, as described herein, computers typically contain information that logs: computer user account session times and durations, computer activity associated with user accounts, electronic storage media that connected with the computer, and the IP addresses through which the computer accessed networks and the internet. Such information allows investigators to understand the chronological context of computer or electronic storage media access, use, and events relating to the crime under investigation. Additionally, some information stored within a computer or electronic storage media may provide crucial evidence relating to the physical location of other evidence and the suspect. For example, images stored on a computer may both show a particular location and have geolocation information incorporated into its file data. Such file data typically also contains information indicating when the file or image was created. The existence of such image files, along with external device connection logs, may also indicate the presence of additional electronic storage media (e.g., a digital camera or cellular phone with an incorporated camera). The geographic and timeline information described herein may either inculcate or exculpate the computer user. Last, information stored within a computer may provide relevant insight into the computer user's state of mind as it relates to the offense under investigation. For example, information within the computer may indicate the owner's motive and intent to commit a crime (e.g., internet searches indicating criminal planning), or consciousness of guilt (e.g., running a "wiping" program to destroy evidence on the computer or password protecting/encrypting such evidence in an effort to conceal it from law enforcement).

c. A person with appropriate familiarity with how a computer works can, after examining this forensic evidence in its proper context, draw conclusions about how computers were used, the purpose of their use, who used them, and when.

EXHIBIT A

d. The process of identifying the exact files, blocks, registry entries, logs, or other forms of forensic evidence on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. While it is possible to specify in advance the records to be sought, computer evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a computer was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium. For example, the presence or absence of counter-forensic programs or anti-virus programs (and associated data) may be relevant to establishing the user's intent.

64. *Necessity of seizing or copying entire computers or storage media.* In most cases, a thorough search of a premises for information that might be stored on storage media often requires the seizure of the physical storage media and later off-site review consistent with the warrant. In lieu of removing storage media from the premises, it is sometimes possible to make an image copy of storage media. Generally speaking, imaging is the taking of a complete electronic picture of the computer's data, including all hidden sectors and deleted files. Either seizure or imaging is often necessary to ensure the accuracy and completeness of data recorded on the storage media, and to prevent the loss of the data either from accidental or intentional destruction. This is true because of the following:

EXHIBIT A

a. The time required for an examination. As noted above, not all evidence takes the form of documents and files that can be easily viewed on site. Analyzing evidence of how a computer has been used, what it has been used for, and who has used it requires considerable time, and taking that much time on the Premises could be unreasonable. As explained above, because the warrant calls for forensic electronic evidence, it is exceedingly likely that it will be necessary to thoroughly examine storage media to obtain evidence. Storage media can store a large volume of information. Reviewing that information for things described in the warrant can take weeks or months, depending on the volume of data stored, and would be impractical and invasive to attempt on-site.

b. Technical requirements. Computers can be configured in several different ways, featuring a variety of different operating systems, application software, and configurations. Therefore, searching them sometimes requires tools or knowledge that might not be present on the search site. The vast array of computer hardware and software available makes it difficult to know before a search what tools or knowledge will be required to analyze the system and its data on the Premises. However, taking the storage media off-site and reviewing it in a controlled environment will allow its examination with the proper tools and knowledge.

c. Variety of forms of electronic media. Records sought under this warrant could be stored in a variety of storage media formats that may require off-site reviewing with specialized forensic tools.

65. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit seizing, imaging, or otherwise copying storage media that reasonably appear to contain some or all of the evidence described in the warrant, and would authorize a later review of the media or information consistent with the

EXHIBIT A

warrant. The later review may require techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of a hard drive to human inspection in order to determine whether it is evidence described by the warrant.

66. As with any search warrant, I expect that this warrant will be executed reasonably. Reasonable execution will likely involve conducting an investigation on the scene of what computers, or storage media, must be seized or copied, and what computers or storage media need not be seized or copied. Where appropriate, officers will copy data, rather than physically seize computers, to reduce the extent of disruption. If employees of GPB so request, the agents will, to the extent practicable, attempt to provide the employees with copies of data that may be necessary or important to the continuing function of GPB's business. If, after inspecting the computers, it is determined that some or all of this equipment is no longer necessary to retrieve and preserve the evidence, the government will return it.

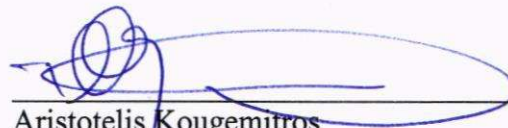
V. Conclusion

67. I submit that this affidavit supports probable cause for warrants to search the LONG ISLAND SUBJECT PREMISES, described in Attachment A, and seize the items described in Attachment B.

68. Furthermore, I respectfully request that this Court issue an Order sealing, until further order of this Court, all papers submitted in support of this Application, including this affidavit and the requisite inventory notice (with the exception of one copy of the warrant and the inventory notice that will be left at the LONG ISLAND SUBJECT PREMISES). I believe that sealing this document is necessary because the items and information to be seized are relevant to an ongoing investigation and not all of the targets of this investigation will be searched at this time. Based upon my training and experience, I have learned that participants in

EXHIBIT A

fraudulent schemes often actively search for criminal affidavits and search warrants via the Internet, and may disseminate them to other participants in the scheme as they deem appropriate. Premature disclosure of the contents of this affidavit and related documents may have a significant and negative impact on the continuing investigation and may severely jeopardize its effectiveness.



Aristotelis Kougemitros
Special Agent
Federal Bureau of Investigation

Sworn to before me this
27th day of February, 2019



THE HONORABLE STEVEN I. LOCKE
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

EXHIBIT A

ATTACHMENT A

Property to be searched

The property to be searched is **GPB CAPITAL HOLDINGS'S ACCOUNTING OFFICES, LOCATED ON THE FIRST AND SECOND FLOORS OF GENTILE PISMENY AND BRENGEL, 1581 FRANKLIN AVENUE, GARDEN CITY, NEW YORK AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN.**

EXHIBIT A**ATTACHMENT B***Property to be seized*

1. All records relating to violations of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code), those violations involving managers and employees of GPB and Ascendant , including but not limited to, David Gentile and Jeffrey Schneider, and occurring after January 1, 2013, including:

- a. Organization charts of GPB Capital Holdings, LLC, GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP, and all other funds, affiliates, subsidiaries, and entities under the control of GPB Capital Holdings, LLC (collectively “GPB”), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively, “Ascendant”)
- b. List of employees and outside contractors with titles, general responsibilities, dates of employment and compensation information.
- c. Any and all performance and valuation summaries or reports for GPB.
- d. List of all investors in GPB, along with the amount of their investment, the performance or returns on investment, the distributions paid to each investor, amount of fees paid (with breakdown), and any redemptions.
- e. Any and all communications with investors in GPB.
- f. Any and all records, including communications to investors and auditors, concerning GPB’s assets under management, the investments in its portfolios, the valuation of assets, and the performance of the investments.

EXHIBIT A

- g. Any and all records, including communications (written or recorded), money transfers, internal memoranda and reports, audit reports and valuation reports, concerning GPB's investments.
- h. All policies, procedures, training materials and related documents.
- i. Bank and accounting records, including records stored in Quickbooks, for GPB, its affiliates and subsidiaries.
- j. All records and communications related to audited financial statements for GPB.
- k. All offering and marketing materials for investments in GPB.
- l. All documents, including accounting records and communications related to any performance guarantees related to any asset owned by GPB or for which GPB and any other party entered into a contract for GPB to acquire.
- m. All documents related to the source of funds for distributions to GPB investors, including calculation of the amount of distributions to investors paid from the operations of GPB-owned assets.
- n. All documents related to due diligence by any broker dealer and all communications with broker dealers.
- o. Documents relating to any fees paid by investors.

2. For any computer, iPad or storage medium whose seizure is otherwise authorized by this warrant, and any computer, iPad or storage medium that contains or in which is stored records or information that is otherwise called for by this warrant (hereinafter, "COMPUTER"):

- a. evidence of who used, owned, or controlled the COMPUTER at the time the things described in this warrant were created, edited, or deleted, such as logs, registry entries, configuration files, saved usernames and passwords, documents, browsing history, user profiles, email, email contacts, "chat," instant messaging logs, photographs, and correspondence;
- b. evidence indicating how and when the COMPUTER was accessed or used to determine the chronological context of computer access, use, and events relating to crime under investigation and to the COMPUTER user;

EXHIBIT A

- c. evidence of the attachment to the COMPUTER of other storage devices or similar containers for electronic evidence;
- d. evidence of counter-forensic programs (and associated data) that are designed to eliminate data from the COMPUTER;
- e. evidence of the times the COMPUTER was used;
- f. passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER;
- g. documentation and manuals that may be necessary to access the COMPUTER or to conduct a forensic examination of the COMPUTER;
- h. records of or information about Internet Protocol addresses used by the COMPUTER; and
- i. records of or information about the COMPUTER's Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" includes all forms of creation or storage, including any form of computer or electronic storage (such as hard disks or other media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).

The term "computer" includes all types of electronic, magnetic, optical, electrochemical, or other high speed data processing devices performing logical, arithmetic, or storage functions, including desktop computers, notebook computers, mobile phones, tablets, server computers, and network hardware.

The term "storage medium" includes any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

EXHIBIT A

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the
Eastern District of New York

In the Matter of the Search of
*(Briefly describe the property to be searched
or identify the person by name and address)*

THE PREMISES KNOWN AND DESCRIBED AS THE COMPUTER SERVER AND ANY LAPTOP COMPUTER
USED BY DAVID GENTILE, MICHAEL BARBAGALLO, MELLISSA AURIGEMMA, AND OTHERS, STORED
INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE FIRST AND SECOND FLOORS OF
GENTILE PISMENY AND BRENGEL, 1581 FRANKLIN AVENUE, GARDEN CITY, NEW YORK, AND INSIDE
THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN

19 182M
Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the Eastern District of New York
(identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal *(identify the person or describe the property to be seized):*

SEE ATTACHMENT B

YOU ARE COMMANDED to execute this warrant on or before March 12, 2019 *(not to exceed 14 days)*
 in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.


Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to the Duty Magistrate Judge
(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized *(check the appropriate box)*

for days *(not to exceed 30)* until, the facts justifying, the later specific date of

Date and time issued: 3/27/19 11:51 AM



Judge's signature

City and state: Central Islip, New York

Hon. Steven I. Locke U.S.M.J.
Printed name and title

EXHIBIT A

AO 93 (Rev. 11/13) Search and Seizure Warrant (Page 2)

Return		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:

Inventory made in the presence of :

Inventory of the property taken and name of any person(s) seized:

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: _____

Executing officer's signature

Printed name and title

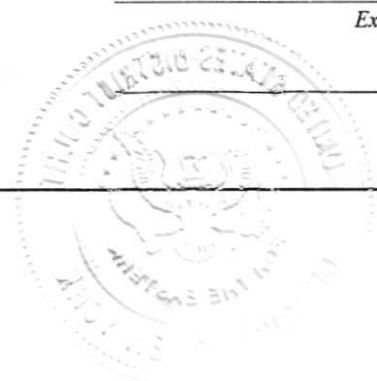


EXHIBIT A

ATTACHMENT A

Property to be searched

The property to be searched is **GPB CAPITAL HOLDINGS'S ACCOUNTING OFFICES, LOCATED ON THE FIRST AND SECOND FLOORS OF GENTILE PISMENY AND BRENGEL, 1581 FRANKLIN AVENUE, GARDEN CITY, NEW YORK AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN.**

EXHIBIT A**ATTACHMENT B***Property to be seized*

1. All records relating to violations of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code), those violations involving managers and employees of GPB and Ascendant , including but not limited to, David Gentile and Jeffrey Schneider, and occurring after January 1, 2013, including:

- a. Organization charts of GPB Capital Holdings, LLC, GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP, and all other funds, affiliates, subsidiaries, and entities under the control of GPB Capital Holdings, LLC (collectively "GPB"), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively, "Ascendant")
- b. List of employees and outside contractors with titles, general responsibilities, dates of employment and compensation information.
- c. Any and all performance and valuation summaries or reports for GPB.
- d. List of all investors in GPB, along with the amount of their investment, the performance or returns on investment, the distributions paid to each investor, amount of fees paid (with breakdown), and any redemptions.
- e. Any and all communications with investors in GPB.
- f. Any and all records, including communications to investors and auditors, concerning GPB's assets under management, the investments in its portfolios, the valuation of assets, and the performance of the investments.

EXHIBIT A

- g. Any and all records, including communications (written or recorded), money transfers, internal memoranda and reports, audit reports and valuation reports, concerning GPB's investments.
 - h. All policies, procedures, training materials and related documents.
 - i. Bank and accounting records, including records stored in Quickbooks, for GPB, its affiliates and subsidiaries.
 - j. All records and communications related to audited financial statements for GPB.
 - k. All offering and marketing materials for investments in GPB.
 - l. All documents, including accounting records and communications related to any performance guarantees related to any asset owned by GPB or for which GPB and any other party entered into a contract for GPB to acquire.
 - m. All documents related to the source of funds for distributions to GPB investors, including calculation of the amount of distributions to investors paid from the operations of GPB-owned assets.
 - n. All documents related to due diligence by any broker dealer and all communications with broker dealers.
 - o. Documents relating to any fees paid by investors.
2. For any computer, iPad or storage medium whose seizure is otherwise authorized by this warrant, and any computer, iPad or storage medium that contains or in which is stored records or information that is otherwise called for by this warrant (hereinafter, "COMPUTER"):
- a. evidence of who used, owned, or controlled the COMPUTER at the time the things described in this warrant were created, edited, or deleted, such as logs, registry entries, configuration files, saved usernames and passwords, documents, browsing history, user profiles, email, email contacts, "chat," instant messaging logs, photographs, and correspondence;
 - b. evidence indicating how and when the COMPUTER was accessed or used to determine the chronological context of computer access, use, and events relating to crime under investigation and to the COMPUTER user;

EXHIBIT A

- c. evidence of the attachment to the COMPUTER of other storage devices or similar containers for electronic evidence;
- d. evidence of counter-forensic programs (and associated data) that are designed to eliminate data from the COMPUTER;
- e. evidence of the times the COMPUTER was used;
- f. passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER;
- g. documentation and manuals that may be necessary to access the COMPUTER or to conduct a forensic examination of the COMPUTER;
- h. records of or information about Internet Protocol addresses used by the COMPUTER; and
- i. records of or information about the COMPUTER's Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" includes ~~all forms of~~ 22

AM creation or storage, including any form of computer or electronic storage (such as hard disks or other media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).

The term "computer" includes all types of electronic, magnetic, optical, electrochemical, or other high speed data processing devices performing logical, arithmetic, or storage functions, including desktop computers, notebook computers, mobile phones, tablets, server computers, and network hardware.

The term "storage medium" includes any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

EXHIBIT B

JMK:MSA
F.# 2018R01064

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

IN THE MATTER OF THE APPLICATION OF
THE UNITED STATES OF AMERICA FOR A
SEARCH WARRANT FOR THE PREMISES
KNOWN AND DESCRIBED AS

TO BE FILED UNDER SEAL

AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
SEARCH WARRANTS

THE COMPUTER SERVER AND ANY LAPTOP
COMPUTER USED BY DAVID GENTILE,
MICHAEL BARBAGALLO, MELISSA
AURIGEMMA, AND OTHERS, STORED INSIDE
THE OFFICES OF GPB CAPITAL HOLDINGS,
LOCATED ON THE SECOND THROUGH SIXTH
FLOORS OF 535 WEST 24TH STREET, NEW
YORK, NEW YORK, (THE "MANHATTAN
SUBJECT PREMISES") AND INSIDE THE
LOCKED AND CLOSED CONTAINERS OR
ITEMS CONTAINED THEREIN, AND

THE COMPUTER SERVER HOUSED AT
ALPHASERVE TECHNOLOGIES, 104 WEST
40TH STREET, NEW YORK, NEW YORK ("THE
ALPHASERVE SERVER")

----- X

SOUTHERN DISTRICT OF NEW YORK, SS:

I, Robert F. Schelhorn, Jr. being duly sworn, depose and state:

I. Introduction

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed by law and acting as such.

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the premises known as 1) THE

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COMPUTER SERVER AND ANY LAPTOP COMPUTER USED BY DAVID GENTILE, MICHAEL BARBAGALLO, MELISSA AURIGEMMA, AND OTHERS, STORED INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE SECOND THROUGH SIXTH FLOORS OF 535 WEST 24TH STREET, NEW YORK, NEW YORK (THE "MANHATTAN SUBJECT PREMISES"), AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN, AND 2) THE COMPUTER SERVER HOUSED AT ALPHASERVE TECHNOLOGIES, 104 WEST 40TH STREET, NEW YORK, NEW YORK ("THE ALPHASERVE SERVER"), which is more particularly described in Attachment A1 and A2, respectively, for the things described in Attachment B1 and B2, respectively.

3. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been for over 20 years. I am responsible for conducting and assisting in investigations into the activities of individuals and criminal groups responsible for public corruption, white-collar fraud, financial crime, and money laundering. I have investigated and otherwise participated in numerous matters during the course of which I have conducted physical surveillance, interviewed witnesses, executed court-authorized search warrants, reviewed and analyzed documentary evidence such as business records and financial records, and used other investigative techniques to secure relevant information.

4. I have personally participated in the investigation of the offenses discussed below. I am familiar with the facts and circumstances of this investigation from, among other: (a) my personal participation in this investigation, (b) reports made to me by other law enforcement authorities and members of the United States Securities and Exchange Commission ("SEC"), (c) interviews with witnesses and victims, (d) review of emails, text messages, private placement

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memoranda, solicitation documents, audited financial statements, corporate agreements, bank records, and other documents and (e) consensual controlled recordings between confidential informants and subjects of the investigation. Except where otherwise noted, all conversations, communications, and documents described in this Affidavit are set forth in part and in substance only. Because this Affidavit is being submitted for the limited purpose of establishing probable cause to issue the requested search warrants, I have not set forth a description of all the facts and circumstances of which I am aware.

5. The FBI is investigating violations of criminal law by the managers, principal partners and employees of GPB Capital Holdings, LLC, the management company of various investment funds, including GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP (collectively "GPB"), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively "Ascendant"). GPB manages over \$1.4 billion in assets. Despite distributing marketing materials representing that GPB pays investors an 8% annual return funded completely by investment profits, in reality GPB uses the capital contributions of some investors to pay the annual returns to other investors. GPB, therefore, operates like a "Ponzi scheme," in that returns to investors come from money invested by later investors, rather than from the profitability of the investments themselves.

6. As set forth below, I submit that there is probable cause to believe that presently contained within the MANHATTAN SUBJECT PREMISES is evidence, fruits and instrumentalities of criminal offenses, to wit: securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title

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18, United States Code, Section 1343; obstruction of justice, in violation of Title 18, United States Code, Section 1512(c)(2); unauthorized computer access, in violation of Title 18, United States Code, Section 1030; unauthorized disclosure of information, in violation of Title 18, United States Code, Section 1905; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code) (collectively, the “Subject Offenses”).

7. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

II. Probable Cause

8. The facts set forth below establish probable cause to believe that from at least 2013 to the present, in the Southern District of New York, the Eastern District of New York and elsewhere, David Gentile, Jeffrey Schneider, other managers and employees of GPB, together with others, engaged in a scheme to defraud investors and potential investors in GPB through material misrepresentations and omissions about, among other things, the performance, liquidity, ownership, control, and use of investments in GPB’s funds.

A. The Relevant Entities

9. GPB Capital Holdings LLC (“GPB Capital Holdings”) is an investment and asset management company with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. In promotional materials I have reviewed, GPB Capital Holdings represents that it identifies and

EXHIBIT B

purchases profitable assets, such as automotive dealerships and waste removal companies, which it operates and sells at a profit. GPB Capital Holdings, a registered financial adviser, is the general partner and investment manager for at least seven limited partnership funds that invest funds on behalf of limited partner-investors, purportedly according to the terms of private placement memoranda (“PPMs”). The memoranda all state, in sum and substance, that the GPB funds expect to distribute 8% of each investors’ funds annually. Currently, GPB purportedly manages over \$1.8 billion in assets.

10. GPB Holdings I, LP, formed on or about March 19, 2013, was an investment fund under the management of GPB Capital Holdings with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. GPB Holdings I raised money from limited partner-investors through PPMs representing, in sum and substance, that the company was formed to acquire and manage private automotive retail, information technology and healthcare companies.

11. GPB Holdings II, LP, formed on or about March 19, 2013, was an investment fund under the management of GPB Capital Holdings with headquarters at 1581 Franklin Avenue, Garden City, New York and principal offices at 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES, respectively. In PPMs, GPB Holdings II variously represented, in substance, that the fund generally intended to invest assets in automotive retail, “managed IT services” and life sciences businesses.

12. GPB Automotive Portfolio, LP, formed on or about May 27, 2013, was an investment fund under the management of GPB Capital Holdings. GPB Automotive Portfolio

EXHIBIT B

raised money from limited partner-investors through PPMs representing, in sum and substance, that the company was formed to acquire, manage and re-sell automobile dealerships.

13. GPB Holdings Automotive, LLC, GPB Portfolio Automotive, LLC, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP and GPB Holdings III, LP are additional funds advised and managed by GPB Capital Holdings, which raise funds from limited partner-investors and purchase and manage assets under their respective purviews.

14. Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively, "Ascendant") are marketing firms that sell investments in GPB through a network of broker-dealers throughout the United States. Ascendant Capital, LLC is an office of, and offers securities through, Axiom Capital Management, Inc. GPB represented in various PPMs that Ascendant and GPB are affiliates. Ascendant operates from offices in Austin, Texas and 535 West 24th Street, New York, New York, the MANHATTAN SUBJECT PREMISES.

B. The Relevant Individuals

15. David Gentile is one of the founders of GPB. Directly or through wholly-controlled entities, Gentile owns 100% of GPB Capital Holdings.

16. Jeffrey Schneider is the sole owner of Ascendant Capital LLC and, together with Gentile and another partner, an owner of Ascendant Alternative Strategies LLC.

C. The Fraudulent Scheme

Overview

17. According to partnership agreements, in or about 2013, David Gentile began creating GPB entities as investment funds. According to a former high-ranking employee at GPB ("E-1"), at approximately the same time, Gentile and Schneider agreed that Schneider would found Ascendant to raise money for GPB. The investments were sold wholesale to

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Ascendant, which used a network of broker-dealers recruited by Schneider to sell GPB investments directly to investors.

18. In PPMs, due diligence materials supplied to broker-dealers who sold investments in GPB funds, and marketing materials that broker-dealers shared with investors, GPB emphasized that a main feature of its investments was a targeted annual distribution to limited partner-investors of 8% of invested capital. In many of those materials, the funds represented that the distributions were paid fully from the profits of the companies that the various funds owned, such as automobile dealerships. As set forth more fully below, those representations were false and materially misleading. In reality, businesses that the funds owned did not produce sufficient profits to cover the distributions, and GPB funded the distributions with capital that had been invested by limited partner-investors.

19. In the meantime, Gentile, Schneider and other high-ranking employees of GPB and Ascendant earned millions through high fees charged to limited-partner investors and through outright misappropriation of investor funds. Currently, the funds are on the verge of default. In 2018, the auditors of one of GPB's funds, GPB Automotive Portfolio, refused to certify the fund's financial statements, triggering an event of default for many of the loans either the fund or the companies it owned had taken out for operations and acquisitions in the normal course of business. The fund is currently in negotiations with several banks to avert being declared in default. Furthermore, in December 2018, the funds suspended all distributions to investors, and issued a letter to investors admitting that it had previously used capital invested by limited partner-investors to make distributions.

20. For instance, marketing materials dated on or about July 4, 2014 reflect typical of GPB and Ascendant's representations to investors and potential investors. In those

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materials, GPB represented that “the distribution of an 8% per annum and all special distributions are fully covered with funds from operations.” The same notes emphasized, “[t]he Fund is differentiated from its alternatives in many very important ways, but we believe the following to be of utmost importance: 100% covered yield with operating income paying an 8% distribution plus all special distributions, paid at least twice a year.” The marketing materials referred to PPMs that were offered on request to potential investors. According to E-1 and another high-ranking former GPB employee (“E-2”), Schneider was the primary author of the PPMs for all of the funds. The PPMs contained various disclosures concerning the source of the funds’ anticipated 8% distribution.

21. In reality, based on a review of audited financial statements for GPB for 2014, GPB collectively paid over \$2 million more in distributions than they earned from the operations of their assets. Contrary to the representations in the marketing materials, the \$2 million in distributions came from capital invested by limited-partner investors. Indeed, for example, GPB Automotive Portfolio, LP, has paid its distributions using investor funds every year since 2015.

22. A comparison of statements in PPMs, marketing, and due diligence materials with the funds’ audited financial statements reflects numerous similar false statements and misrepresentations, some of which are summarized below.

GPB Capital Holdings

23. In materials that GPB prepared for potential investors, GPB represented, in sum and substance, that distributions to investors were funded through the operations of assets that its funds acquired. For example, in a PowerPoint presentation dated June 3, 2014, GPB entity GPB Capital Holdings, LLC wrote, “Annual Dividend – 8% paid 100% funds from

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operation.” The same presentation further stated, “GPB Capital – 2013/14 Update...Current distribution 8% per annum sourced only from FFO [funds from operations].”

24. Furthermore, on or about January 30, 2015, David Gentile used his GPB email account to send an email to a broker-dealer that sold investments in GPB, attaching an announcement for a webinar presentation by GPB Capital Holdings, with the subject “GPB Capital Holdings' Funds- Webinar - Q4 2014 Results.” The body of the announcement contained the statement “GPB Fund Highlights: 2014 distribution of 10.5% fully covered with Funds From Operations.” The announcement also listed GPB’s email account “info@gpb-cap.com” and its website “www.gpb-cap.com” as contact information for potential investors.

25. In its audited financial statements for 2014, however, GPB Capital Holdings represented that it paid approximately \$2,214,778 in distributions, but received income of only approximately \$23,403. GPB Capital Holdings, therefore, paid approximately \$2,191,375 more in distributions than it earned from the operations of its assets.

26. In its audited financial statements for 2015, GPB Capital Holdings reported that it made approximately \$4,853,957 in distributions, but earned only approximately \$1,904,043 from the operations of its assets. GPB Capital Holdings, therefore, paid approximately \$2,949,914 more in distributions than it earned.

GPB Automotive

27. In a PPM for GPB Automotive, dated on or about February 20, 2014, GPB stated, “When GPB determines to do so after accounting for reserves and expenses or reinvestments, we will make distributions based on cash flow we have received from Dealerships.”

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28. Similarly, in a PPM for GPB Automotive, dated on or about December 31, 2014, GPB wrote, “[w]hen GPB determines to do so after accounting for reserves and expenses or reinvestments, we will make distributions based on cash flow we have received from Dealerships. GPB expects the Company to make distributions of cash, if any, to the LPs beginning three months after their subscription at annual return rates targeted to be at least 8% (though distributions could be more, less or none at all, depending on cash flow).”

29. In its audited financial statements for 2014, GPB Automotive made approximately \$792,933 in distributions and recorded approximately \$1,011,988 in net operating income.

30. In promotional materials distributed in or about 2015, GPB Automobile wrote, “2014 Distribution – 11.5% fully covered – funds from operations.” The fund further wrote, “[t]argeted annual distribution – 8% paid – 100% funds from operations.”

31. In promotional materials circulated in 2016, GPB Automotive Portfolio wrote, “Historical Distribution – 2015 Distribution: 10%, 2014 Distribution: 11.5%.” The materials further stated, “Distribution: 80%/20% profit participation.” I am aware from my training and experience in investigating financial crimes that investment funds frequently split profits, such as dividends, by paying 80% of the profits to investors and 20% to fund managers. I believe that the statement in GPB Automobile’s promotional materials was intended to mislead investors into believing that the fund was profitable, when in 2016 it was not. Also in the materials, on a page titled “Structure,” GPB Automotive Portfolio reported, “Distributions – Based off cash flow from portfolio companies, targeted at 8.7%.”

32. Contrary to these and similar representations in the PPMs, financial statements for the fund and statements by fund employees reflect that distributions to limited

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partners have come from capital invested by such partners rather than cash flow from operations. For example, in its audited financial statements for 2015, GPB Automotive reported that it made approximately \$2,405,529 more in distributions than it received from operations.

33. Furthermore, on or about September 15, 2015, GPB's Director of Fund Accounting sent an email using GPB's email system to a member of GPB's accounting staff ("E-3") with the subject "GPB Funds – Distribution account shortfall as of 9.15.15." In the email the employee wrote, "attached is the reconciliation for all transfers made from the investment accounts to the various other accounts to cover numerous cash outflows (i.e. monthly distributions, fund overhead, etc...). The employee further wrote, "Also, GPB [Automotive] is not able to cover its monthly distributions from the assets/investments it currently holds."

34. Likewise, in or about December 2016, in a PPM for GPB Automotive, GPB represented that, "while we have no present plans to do so, we could include LPs' invested capital in amounts we distribute to LPs, which may reduce the amount of capital available to acquire and operate Dealerships and make other permitted acquisitions, as well as, negatively impact the value of the LPs' investments, especially if a substantial portion of our distributions are paid from our LPs' invested capital."

35. GPB Automotive's 2016 audited financial statement, however, shows that it had continued making distributions to investors despite a massive shortfall from operations that year. Specifically, the fund's audited financial statement for 2016, reports approximately \$14,339,241 in distributions even though it suffered a net loss from operations of approximately \$7,294,002. Thus, any distributions could not have come from operations, and the funds statement in its December 2016 PPM that it had "no present plans" to pay distributions from invested capital was materially misleading.

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36. Tellingly, on or about July 16, 2018, in a PPM for GPB Automotive, GPB represented that, “[p]eriodic distributions are currently and may in the future be paid out of available working capital, which include investor contributions.” Indeed, the investigation has revealed that the GPB Automotive fund has paid its distributions using investor funds every year since 2015, despite its claims in PPMs and other marketing materials.

GPB Holdings

37. In a PPM dated on or about May 13, 2014, GPB Holdings wrote, “Distributions by Holdings will be made when determined by GPB in its sole discretion. At any time GPB may make a distribution in cash or retain and/or reinvest cash otherwise available for distributions. GPB expects Holdings to make distributions of cash, if any, to the LPs beginning three months after their subscription at annual return rates targeted to be 8% (though distributions could be more, less or none at all, depending on Holdings’ cash flow, and qualified’s distributions will be reduced by the taxes it pays at the entity level).”

38. In a PowerPoint presentation dated in or about 2015, GPB Holdings reported, “2014 Dividend Yield – 10.5% fully covered with Funds from Operations.”

39. In reality, according to the fund’s 2014 audited financial statements, that year GPB Holdings distributed approximately \$2,565,579 to investors, but earned income only of approximately \$2,498,858. GPB Holdings, therefore, used approximately \$66,721 in investor funds to make its distributions.

40. Furthermore, in the 2015 PowerPoint presentation, GPB Holdings wrote, “Targeted Annual Distribution – 8.7% Paid - 100% funds from operations.”

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41. In its 2015 audited financial statements, however, GPB Holdings reported distributions of approximately \$12,345,630 and income of approximately \$12,210,192. The fund, therefore, used approximately \$135,438 in investor funds to make its distributions.

42. In a PPM issued in or about December 2016, GPB Holdings wrote, “As of October 31, 2016, we have made aggregate distributions of \$27,669,162 to the LPs. We will make distributions of cash as it’s available.”

43. In its 2016 audited financial statements, however, GPB Holdings reported distributions of approximately \$15,845,000 and an operating loss of approximately \$9,592,000. Thus, the fund made all distributions from investors’ capital and spent approximately \$25,437,000 more than it earned from operations.

GPB Holdings II

44. On or about April 13, 2015, in the section of a PPM for GPB Holdings II titled “General Investment Risks,” GPB represented, “while we have no present plans to do so, we could include LPs’ invested capital in amounts we distribute to LPs, which would reduce an LP’s rate of return.”

45. For the period from its inception on April 13, 2015 to December 31, 2015, GPB Holdings II reported net operating income of \$645,632. During the same period, the fund reported distributions of \$197,056.

46. Similarly, on or about March 7, 2016, in a PPM for GPB Holdings II, GPB represented, “we reserve the right to return Capital Contributions to LPs as part of our distributions, though we do not presently have plans to do so.” GPB further stated in the same PPM, “while we have no present plans to do so, we could include LPs’ invested capital in amounts we distribute to LPs, which may reduce the amount of capital available to acquire and

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operate Portfolio Companies and make other permitted acquisitions, as well as, negatively impact the value of the LPs' investments, especially if a substantial portion of our distributions are paid from our LPs' invested capital."

47. Nonetheless, in marketing materials for investments in GPB Holdings II, dated in or about 2016, GPB falsely stated, "Targeted annual distribution – 8.7% Paid – 100% Funds From Operations."

48. In reality, according to its 2016 financial statements, GPB Holdings II distributed approximately \$8,089,000 to investors and suffered a loss of approximately \$6,607,000 from the operations of its assets. Thus, all of its distributions were from investor capital, and the fund posted a loss of approximately \$14,696,000.

Coverage Ratios

49. During the investigation, agents have interviewed a number of current and former employees of GPB, as well as members of the company that operates a number of GPB-owned automobile dealerships. Those individuals stated that high-level GPB employees, including Gentile and Schneider, frequently discussed the fact, contrary to GPB's representations to investors and potential investors, that GPB's distributions to investors were not derived from business operations of GPB-held companies. In fact, Schneider told GPB employees that GPB's goal was to fund only 75% of distributions to investors from operational revenue. Schneider and others at GPB referred to the percent of distributions derived from operational revenue as the "coverage ratio."

50. GPB also maintained spreadsheets containing calculations of the coverage ratios for various GPB funds. For example, in a calculation done in 2015, GPB noted that GPB Holdings had a shortfall of 6% of its distributions and GPB Automotive had a shortfall of 50%.

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Falsification of Performance Guarantees to Fabricate Income

51. GPB also falsified its books and records to make it appear as if it had no shortfall from operations, using “performance guarantees” and other fraudulent documents to do so. For instance, in 2013, GPB attempted to purchase a number of automobile dealerships from Jeffrey Lash. GPB paid the entire purchase price upfront, even though GPB could not assume ownership of the dealerships until the relevant automobile dealerships approved GPB as a franchisee. While the approval process was underway, Lash remained the owner of record of the dealerships, but agreed to turn over all of the dealerships’ profits to GPB.

52. The next year, the dealerships purchased from Lash did not receive enough income from operations to cover the advertised distributions to GPB investors. To hide the shortfall, Gentile and Schnieder, together with others, manufactured back-dated “performance guarantees” that purported to require Lash to make up any shortfall. Lash informed a witness that the parties never intended to obligate Lash through the agreements, but that the agreements were intended to create the appearance of profitability, thereby leading investors to believe that the funds generated the full amount of distributions through the operations of the businesses they owned. Indeed, GPB listed approximately \$1,136,201 in performance guarantees as “income” for 2014, even though Lash has never paid the performance guarantees. The purported income from the guarantee represented approximately half of the fund’s net investment income for the year. Similarly, in 2015, a back-dated performance guarantee, purportedly executed by Lash, was used to make up an income shortfall and overstated net investment income by approximately \$1,050,000. This amount represented approximately a third of net investment income for GPB Automotive for 2015. As noted above, GPB used this false information to market investments in the fund to other investors.

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E. Relevant Facts Concerning the Subject Premises

53. E-2 is currently an executive at a company that is part-owned by GPB Automotive and is involved in managing all of the automobile dealerships that GPB Automotive owns. E-2 visits the MANHATTAN SUBJECT PREMISES regularly and, for several years, worked for GPB at the MANHATTAN SUBJECT PREMISES. I have also spoken with another executive at a company part owned by GPB Automotive (“E-3”). E-2 and E-3 explained that the MANHATTAN SUBJECT PREMISES consists of the 4th, 5th and 6th floors of a brownstone building located at 535 West 24th Street, New York, New York. The 4th floor consists of an open space with one or more conference rooms bordering portions of space. Among other offices on the 4th floor, are offices for GPB attorneys, administrative staff and Gentile. Furthermore, Gentile’s secretaries, Mike Barbagallo and Melissa Aurigemma, have desks assigned next to each other, across from Gentile’s office. E-2 stated that the administrative assistants take minutes of GPB meetings and notes for Gentile on laptop computers. E-2 explained that the 5th floor houses offices of accountants, analysts, and employees that conduct valuations of assets and potential assets. According to E-3, the 5th floor is largely occupied by GPB’s human resources department. E-2 and E-3 both explained that the 6th floor contains a conference room and has access to the roof, which also has a small conference room or office. E-3 stated that GENTILE uses the 6th floor office at times.

54. E-2 explained that there are no desktop computers at GPB. Instead, each employee is assigned a laptop computer, through which the employee can access GPB’s servers, where GPB’s documents are stored. E-2 further explained that GPB maintains few, if any, paper files.

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55. In the course of their work at GPB, E-2 and another employee in the accounting departments of various GPB-owned entities with whom I have spoken (“E-4”) have also visited GPB’s office at the LONG ISLAND SUBJECT PREMISES, which is an office located in the office space of Gentile Pismeny and Brengel, which Gentile’s father founded and where Gentile worked prior to forming GPB. E-2 and E-4 stated that all of the bookkeeping for GPB funds is performed at the LONG ISLAND SUBJECT PREMISES, mostly on the Quickbooks computer program, copies of which are retained in the LONG ISLAND SUBJECT PREMISES and on GPB’s server at the MANHATTAN SUBJECT PREMISES.

56. E-4, who worked in accounting for GPB-owned entities through November 2016 and has maintained contact with several GPB employees through the present, frequently visited both the MANHATTAN SUBJECT PREMISES and the LONG ISLAND SUBJECT PREMISES. E-4 stated that one of Gentile’s administrative assistants, Michael Barbagallo, maintains an office on the 2nd Floor of the LONG ISLAND SUBJECT PREMISES, where he performs accounting work related to GPB and Gentile’s personal finances. E-4 stated that Barbagallo maintains documents and a laptop computer related to GPB in his office at the LONG ISLAND SUBJECT PREMSIES.

57. E-4 further stated that one of the principals in GPB’s accounting department works on the first floor of the LONG ISLAND SUBJECT PREMISES. E-4 further stated that Kyle Brengel works on the first floor and performs accounting services for GPB Capital, creates IRS Schedule K-1s for limited partner-investors and performs tax services for GPB funds. E-4 stated that Brengel maintains documents related to GPB at his office.

58. I have also learned that Egnyte, a Mountain View, California corporation, provides GPB with servers, data storage, and web-based access to GPB’s data. Only authorized

EXHIBIT B

GPB employees or designated information technology professionals may access the information housed on these servers. I have also learned from my review of Egnyte records that GPB maintains a backup server at Alphaserve Technologies, the ALPHASERVE SERVER, located at 104 West 40th Street, New York, New York. I am informed by E-4 that GENTILE has an ownership interest in Alphaserve Technologies.

59. Pursuant to its investigation of GPB, on or about September 25, 2018, the SEC served GPB with a preservation notice, requiring GPB to maintain all records, including, inter alia, physical documents, emails, and files housed on GPB servers.

III. Technical Terms

60. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. *IP Address*: The Internet Protocol address (or simply “IP address”) is a unique numeric address used by computers on the Internet. An IP address looks like a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses.

b. *Internet*: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

EXHIBIT B

c. *Storage medium:* A storage medium is any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

IV. Computers, Electronic Storage and Forensic Analysis

61. As described above and in Attachments B1 and B2, respectively, this application seeks permission to search for records that might be found on the MANHATTAN SUBJECT PREMISES and the ALPHASERVE SERVER, in whatever form they are found. One form in which the records might be found is data stored on a computer's hard drive, iPads or other storage media. Thus, the warrant applied for would authorize the seizure of electronic storage media or, potentially, the copying of electronically stored information, all under Rule 41(e)(2)(B).

62. *Probable cause.* I submit that if a computer or storage medium is found on the MANHATTAN SUBJECT PREMISES, there is probable cause to believe those records will be stored on that computer or storage medium, for at least the following reasons:

a. Based on my knowledge, training, and experience, I know that computer files or remnants of such files can be recovered months or even years after they have been downloaded onto a storage medium, deleted, or viewed via the Internet. Electronic files downloaded to a storage medium can be stored for years at little or no cost. Even when files have been deleted, they can be recovered months or years later using forensic tools. This is so because when a person "deletes" a file on a computer, the data contained in the file does not actually disappear; rather, that data remains on the storage medium until it is overwritten by new data.

EXHIBIT B

b. Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space—that is, in space on the storage medium that is not currently being used by an active file—for long periods of time before they are overwritten. In addition, a computer’s operating system may also keep a record of deleted data in a “swap” or “recovery” file.

c. Wholly apart from user-generated files, computer storage media—in particular, computers’ internal hard drives—contain electronic evidence of how a computer has been used, what it has been used for, and who has used it. To give a few examples, this forensic evidence can take the form of operating system configurations, artifacts from operating system or application operation, file system data structures, and virtual memory “swap” or paging files. Computer users typically do not erase or delete this evidence, because special software is typically required for that task. However, it is technically possible to delete this information.

d. Similarly, files that have been viewed via the Internet are sometimes automatically downloaded into a temporary Internet directory or “cache.”

e. Based on information from E-2, E-3, E-4 and other former GPB employees, and actual inspection of other evidence related to this investigation, such as PPMs, marketing materials, financial statements, accounting spreadsheets and other financial records, I am aware that computer equipment was used to generate, store, and print documents used in the above-described scheme. As described above, there is reason to believe that there is a computer system currently located on the MANHATTAN SUBJECT PREMISES and the ALPHASERVE SERVER.

EXHIBIT B

63. *Forensic evidence.* As further described in Attachment B1 and B2, this application seeks permission to locate not only computer files that might serve as direct evidence of the crimes described on the warrant, but also forensic electronic evidence that establishes how computers were used, the purpose of their use, who used them, and when. There is probable cause to believe that this forensic electronic evidence will be on any storage medium in the MANHATTAN SUBJECT PREMISES and the ALPHASERVE SERVER because:

a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file). Virtual memory paging systems can leave traces of information on the storage medium that show what tasks and processes were recently active. Web browsers, e-mail programs, and chat programs store configuration information on the storage medium that can reveal information such as online nicknames and passwords. Operating systems can record additional information, such as the attachment of peripherals, the attachment of USB flash storage devices or other external storage media, and the times the computer was in use. Computer file systems can record information about the dates files that were created and the sequence in which they were created, although this information can later be falsified.

b. As explained herein, information stored within a computer and other electronic storage media may provide crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, information stored within a computer or storage media (e.g., registry information, communications, images and movies, transactional information, records of

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session times and durations, internet history, and anti-virus, spyware, and malware detection programs) can indicate who has used or controlled the computer or storage media. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence. The existence or absence of anti-virus, spyware, and malware detection programs may indicate whether the computer was remotely accessed, thus inculcating or exculpating the computer owner. Further, computer and storage media activity can indicate how and when the computer or storage media was accessed or used. For example, as described herein, computers typically contain information that logs: computer user account session times and durations, computer activity associated with user accounts, electronic storage media that connected with the computer, and the IP addresses through which the computer accessed networks and the internet. Such information allows investigators to understand the chronological context of computer or electronic storage media access, use, and events relating to the crime under investigation. Additionally, some information stored within a computer or electronic storage media may provide crucial evidence relating to the physical location of other evidence and the suspect. For example, images stored on a computer may both show a particular location and have geolocation information incorporated into its file data. Such file data typically also contains information indicating when the file or image was created. The existence of such image files, along with external device connection logs, may also indicate the presence of additional electronic storage media (e.g., a digital camera or cellular phone with an incorporated camera). The geographic and timeline information described herein may either inculcate or exculpate the computer user. Last, information stored within a computer may provide relevant insight into the computer user’s state of mind as it relates to the offense under investigation. For example, information within the computer may indicate the owner’s motive and intent to commit a crime

EXHIBIT B

(e.g., internet searches indicating criminal planning), or consciousness of guilt (e.g., running a “wiping” program to destroy evidence on the computer or password protecting/encrypting such evidence in an effort to conceal it from law enforcement).

c. A person with appropriate familiarity with how a computer works can, after examining this forensic evidence in its proper context, draw conclusions about how computers were used, the purpose of their use, who used them, and when.

d. The process of identifying the exact files, blocks, registry entries, logs, or other forms of forensic evidence on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. While it is possible to specify in advance the records to be sought, computer evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a computer was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium. For example, the presence or absence of counter-forensic programs or anti-virus programs (and associated data) may be relevant to establishing the user’s intent.

64. *Necessity of seizing or copying entire computers or storage media.* In most cases, a thorough search of a premises for information that might be stored on storage media often requires the seizure of the physical storage media and later off-site review consistent with the warrant. In lieu of removing storage media from the premises, it is sometimes possible

EXHIBIT B

to make an image copy of storage media. Generally speaking, imaging is the taking of a complete electronic picture of the computer's data, including all hidden sectors and deleted files. Either seizure or imaging is often necessary to ensure the accuracy and completeness of data recorded on the storage media, and to prevent the loss of the data either from accidental or intentional destruction. This is true because of the following:

a. The time required for an examination. As noted above, not all evidence takes the form of documents and files that can be easily viewed on site. Analyzing evidence of how a computer has been used, what it has been used for, and who has used it requires considerable time, and taking that much time on the Premises could be unreasonable. As explained above, because the warrant calls for forensic electronic evidence, it is exceedingly likely that it will be necessary to thoroughly examine storage media to obtain evidence. Storage media can store a large volume of information. Reviewing that information for things described in the warrant can take weeks or months, depending on the volume of data stored, and would be impractical and invasive to attempt on-site.

b. Technical requirements. Computers can be configured in several different ways, featuring a variety of different operating systems, application software, and configurations. Therefore, searching them sometimes requires tools or knowledge that might not be present on the search site. The vast array of computer hardware and software available makes it difficult to know before a search what tools or knowledge will be required to analyze the system and its data on the Premises. However, taking the storage media off-site and reviewing it in a controlled environment will allow its examination with the proper tools and knowledge.

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c. Variety of forms of electronic media. Records sought under this warrant could be stored in a variety of storage media formats that may require off-site reviewing with specialized forensic tools.

65. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit seizing, imaging, or otherwise copying storage media that reasonably appear to contain some or all of the evidence described in the warrant, and would authorize a later review of the media or information consistent with the warrant. The later review may require techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of a hard drive to human inspection in order to determine whether it is evidence described by the warrant.

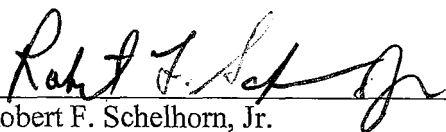
66. As with any search warrant, I expect that this warrant will be executed reasonably. Reasonable execution will likely involve conducting an investigation on the scene of what computers, or storage media, must be seized or copied, and what computers or storage media need not be seized or copied. Where appropriate, officers will copy data, rather than physically seize computers, to reduce the extent of disruption. If employees of GPB so request, the agents will, to the extent practicable, attempt to provide the employees with copies of data that may be necessary or important to the continuing function of GPB's business. If, after inspecting the computers, it is determined that some or all of this equipment is no longer necessary to retrieve and preserve the evidence, the government will return it.

V. Conclusion

67. I submit that this affidavit supports probable cause for warrants to search the MANHATTAN SUBJECT PREMISES and the ALPHASERVE SERVER, described in Attachments A1 and B1, respectively, and seize the items described in Attachment B1 and B2.

EXHIBIT B

68. Furthermore, I respectfully request that this Court issue an Order sealing, until further order of this Court, all papers submitted in support of this Application, including this affidavit and the requisite inventory notice (with the exception of one copy of the warrant and the inventory notice that will be left at the MANHATTAN SUBJECT PREMISES and the ALPHASERVE SERVER). I believe that sealing this document is necessary because the items and information to be seized are relevant to an ongoing investigation and not all of the targets of this investigation will be searched at this time. Based upon my training and experience, I have learned that participants in fraudulent schemes often actively search for criminal affidavits and search warrants via the Internet, and may disseminate them to other participants in the scheme as they deem appropriate. Premature disclosure of the contents of this affidavit and related documents may have a significant and negative impact on the continuing investigation and may severely jeopardize its effectiveness.



Robert F. Schelhorn, Jr.
Special Agent
Federal Bureau of Investigation

Sworn to before me this
27th day of February, 2019



THE HONORABLE ONA T. WANG
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT B

ATTACHMENT A1

Property to be searched

The property to be searched is **THE COMPUTER SERVER AND ANY LAPTOP COMPUTER USED BY DAVID GENTILE, MICHAEL BARBAGALLO, MELISSA AURIGEMMA AND OTHERS, STORED INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE SECOND THROUGH SIXTH FLOORS OF 535 WEST 24TH STREET, NEW YORK, NEW YORK, AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN.**

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ATTACHMENT A2

Property to be searched

The property to be searched is **THE COMPUTER SERVER HOUSED AT ALPHASERVE TECHNOLOGIES, 104 WEST 40TH STREET, NEW YORK, NEW YORK (“THE ALPHASERVE SERVER”)**

EXHIBIT B**ATTACHMENT B1***Property to be seized*

1. All records relating to violations of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code), those violations involving managers and employees of GPB and Ascendant, including but not limited to, David Gentile and Jeffrey Schneider, and occurring after January 1, 2013, including:

- a. Organization charts of GPB Capital Holdings, LLC, GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP, and all other funds, affiliates, subsidiaries, and entities under the control of GPB Capital Holdings, LLC (collectively "GPB"), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively, "Ascendant")
- b. List of employees and outside contractors with titles, general responsibilities, dates of employment and compensation information.
- c. Any and all performance and valuation summaries or reports for GPB.
- d. List of all investors in GPB, along with the amount of their investment, the performance or returns on investment, the distributions paid to each investor, amount of fees paid (with breakdown), and any redemptions.
- e. Any and all communications with investors in GPB.
- f. Any and all records, including communications to investors and auditors, concerning GPB's assets under management, the investments in its portfolios, the valuation of assets, and the performance of the investments.

EXHIBIT B

- g. Any and all records, including communications (written or recorded), money transfers, internal memoranda and reports, audit reports and valuation reports, concerning GPB's investments.
 - h. All policies, procedures, training materials and related documents.
 - i. Bank and accounting records, including records stored in Quickbooks, for GPB, its affiliates and subsidiaries.
 - j. All records and communications related to audited financial statements for GPB.
 - k. All offering and marketing materials for investments in GPB.
 - l. All documents, including accounting records and communications related to any performance guarantees related to any asset owned by GPB or for which GPB and any other party entered into a contract for GPB to acquire.
 - m. All documents related to the source of funds for distributions to GPB investors, including calculation of the amount of distributions to investors paid from the operations of GPB-owned assets.
 - n. All documents related to due diligence by any broker dealer and all communications with broker dealers.
 - o. Documents relating to any fees paid by investors.
2. For any computer, iPad or storage medium whose seizure is otherwise authorized by this warrant, and any computer, iPad or storage medium that contains or in which is stored records or information that is otherwise called for by this warrant (hereinafter, "COMPUTER"):
- a. evidence of who used, owned, or controlled the COMPUTER at the time the things described in this warrant were created, edited, or deleted, such as logs, registry entries, configuration files, saved usernames and passwords, documents, browsing history, user profiles, email, email contacts, "chat," instant messaging logs, photographs, and correspondence;
 - b. evidence indicating how and when the COMPUTER was accessed or used to determine the chronological context of computer access, use, and events relating to crime under investigation and to the COMPUTER user;

EXHIBIT B

- c. evidence of the attachment to the COMPUTER of other storage devices or similar containers for electronic evidence;
- d. evidence of counter-forensic programs (and associated data) that are designed to eliminate data from the COMPUTER;
- e. evidence of the times the COMPUTER was used;
- f. passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER;
- g. documentation and manuals that may be necessary to access the COMPUTER or to conduct a forensic examination of the COMPUTER;
- h. records of or information about Internet Protocol addresses used by the COMPUTER; and
- i. records of or information about the COMPUTER's Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" includes all forms of creation or storage, including any form of computer or electronic storage (such as hard disks or other media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).

The term "computer" includes all types of electronic, magnetic, optical, electrochemical, or other high speed data processing devices performing logical, arithmetic, or storage functions, including desktop computers, notebook computers, mobile phones, tablets, server computers, and network hardware.

The term "storage medium" includes any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

ATTACHMENT B2

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Property to be seized

3. All records relating to violations of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code), those violations involving managers and employees of GPB and Ascendant, including but not limited to, David Gentile and Jeffrey Schneider, and occurring after January 1, 2013, including:

- a. Organization charts of GPB Capital Holdings, LLC, GPB Holdings, LP, GPB Automotive Portfolio LP, GPB Waste Management LP, GPB Cold Storage, LP, GPB NYC Development, LP, GPB Holdings II, LP and GPB Holdings III, LP, and all other funds, affiliates, subsidiaries, and entities under the control of GPB Capital Holdings, LLC (collectively "GPB"), and affiliated marketing entities Ascendant Alternative Strategies LLC and Ascendant Capital LLC (collectively "Ascendant").
- b. List of employees and outside contractors with titles, general responsibilities, dates of employment and compensation information.
- c. Any and all performance and valuation summaries or reports for GPB.
- d. List of all investors in GPB, along with the amount of their investment, the performance or returns on investment, the distributions paid to each investor, amount of fees paid (with breakdown), and any redemptions.
- e. Any and all communications with investors in GPB.
- f. Any and all records, including communications to investors and auditors, concerning GPB's assets under management, the investments in its portfolios, the valuation of assets, and the performance of the investments.
- g. Any and all records, including communications (written or recorded), money transfers, internal memoranda and reports, audit reports and valuation reports, concerning GPB's investments.

EXHIBIT B

- h. All policies, procedures, training materials and related documents.
- i. Bank and accounting records, including records stored in Quickbooks, for GPB, its affiliates and subsidiaries.
- j. All records and communications related to audited financial statements for GPB.
- k. All offering and marketing materials for investments in GPB.
- l. All documents, including accounting records and communications related to any performance guarantees related to any asset owned by GPB or for which GPB and any other party entered into a contract for GPB to acquire.
- m. All documents related to the source of funds for distributions to GPB investors, including calculation of the amount of distributions to investors paid from the operations of GPB-owned assets.
- n. All documents related to due diligence by any broker dealer and all communications with broker dealers.
- o. Documents relating to any fees paid by investors.

4. For any computer, iPad or storage medium whose seizure is otherwise authorized by this warrant, and any computer, iPad or storage medium that contains or in which is stored records or information that is otherwise called for by this warrant (hereinafter, "COMPUTER"):

- a. evidence of who used, owned, or controlled the COMPUTER at the time the things described in this warrant were created, edited, or deleted, such as logs, registry entries, configuration files, saved usernames and passwords, documents, browsing history, user profiles, email, email contacts, "chat," instant messaging logs, photographs, and correspondence;
- b. evidence indicating how and when the COMPUTER was accessed or used to determine the chronological context of computer access, use, and events relating to crime under investigation and to the COMPUTER user;
- c. evidence of the attachment to the COMPUTER of other storage devices or similar containers for electronic evidence;
- d. evidence of counter-forensic programs (and associated data) that are designed to eliminate data from the COMPUTER;

EXHIBIT B

- e. evidence of the times the COMPUTER was used;
- f. passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER;
- g. documentation and manuals that may be necessary to access the COMPUTER or to conduct a forensic examination of the COMPUTER;
- h. records of or information about Internet Protocol addresses used by the COMPUTER; and
- i. records of or information about the COMPUTER's Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" includes all forms of creation or storage, including any form of computer or electronic storage (such as hard disks or other media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).

The term "computer" includes all types of electronic, magnetic, optical, electrochemical, or other high speed data processing devices performing logical, arithmetic, or storage functions, including desktop computers, notebook computers, mobile phones, tablets, server computers, and network hardware.

The term "storage medium" includes any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

EXHIBIT B

UNITED STATES DISTRICT COURT

for the Southern District of New York

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address)

THE COMPUTER SERVER AND ANY LAPTOP COMPUTER USED BY DAVID GENTILE, MICHAEL BARBAGALLO OR MELLISSA AURIGEMMA, STORED INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE SECOND THROUGH SIXTH FLOORS OF 535 WEST 24TH STREET, NEW YORK, NEW YORK, (THE "MANHATTAN SUBJECT PREMISES") AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN

Case No.

APPLICATION FOR A SEARCH AND SEIZURE WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

located in the Southern District of New York, there is now concealed (identify the person or describe the property to be seized):

See Attached Affidavit and its Attachment A1

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- [x] evidence of a crime;
[x] contraband, fruits of crime, or other items illegally possessed;
[x] property designed for use, intended for use, or used in committing a crime;
[] a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section(s) Offense Description(s)
Securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code)

The application is based on these facts:

See Attached Affidavit and its Attachment A1

- [] Continued on the attached sheet.
[] Delayed notice of 30 days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Robert F. ... Applicant's signature

Printed name and title

Sworn to before me and signed in my presence.

Date: 2/27/19; 2:08

Judge's signature

City and state: New York, NY

Printed name and title

EXHIBIT B

ORIGINAL

AO 93 (SDNY Rev. 01/17) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the Southern District of New York

In the Matter of the Search of (Briefly describe the property to be searched or identify the person by name and address)

THE COMPUTER SERVER AND ANY LAPTOP COMPUTER USED BY DAVID GENTILE, MICHAEL BARBAGALLO OR MELLISSA AURIGEMMA, STORED INSIDE THE OFFICES OF GPB CAPITAL HOLDINGS, LOCATED ON THE SECOND THROUGH SIXTH FLOORS OF 535 WEST 24TH STREET, NEW YORK, NEW YORK, (THE "MANHATTAN SUBJECT PREMISES") AND INSIDE THE LOCKED AND CLOSED CONTAINERS OR ITEMS CONTAINED THEREIN

19 MAG 20 30 (with handwritten 'a' and 'Case No.')

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Southern District of New York (identify the person or describe the property to be searched and give its location):

See Attachment A1

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

See Attachment B1

The search and seizure are related to violation(s) of (insert statutory citations):

Securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code)

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before March 12, 2019

(not to exceed 14 days)

[X] in the daytime 6:00 a.m. to 10 p.m. [] at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the Clerk of the Court.

[] Upon its return, this warrant and inventory should be filed under seal by the Clerk of the Court. USMJ Initials

[] I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) [X] for 30 days (not to exceed 30).

[] until, the facts justifying, the later specific date of

Date and time issued: 2/27/2019 1:52 pm (with handwritten 'OTW' in a circle)

Judge's signature

City and state: New York, NY

Printed name and title

EXHIBIT B

AO 93 (SDNY Rev. 01/17) Search and Seizure Warrant (Page 2)

Return		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of :		
Inventory of the property taken and name of any person(s) seized:		
Certification		
<p>I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the Court.</p>		
Date: _____	_____	
	<i>Executing officer's signature</i>	

	<i>Printed name and title</i>	

EXHIBIT B

UNITED STATES DISTRICT COURT

for the
Southern District of New York

19 MAG 20 30

In the Matter of the Search of
(Briefly describe the property to be searched)

THE COMPUTER SERVER HOUSED AT ALPHASERVE TECHNOLOGIES, 104
WEST 40TH STREET, NEW YORK, NEW YORK ("THE ALPHASERVE SERVER")

Case No.

APPLICATION FOR A SEARCH AND SEIZURE WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

located in the Southern District of New York, there is now concealed (identify the person or describe the property to be seized):

See Attached Affidavit and its Attachment A2

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section(s)</i>	<i>Offense Description(s)</i>
Securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code)	

The application is based on these facts:

See Attached Affidavit and its Attachment A2

- Continued on the attached sheet.
- Delayed notice of 30 days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Rahaf T. Sch J
Applicant's signature

Printed name and title

Sworn to before me and signed in my presence.

Date: 2.27.19

[Signature]
Judge's signature

City and state: New York, NY

Printed name and title

EXHIBIT B MAR 20 2019

AO 93 (SDNY Rev. 01/17) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the Southern District of New York

ORIGINAL

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address))

Case No.

THE COMPUTER SERVER HOUSED AT ALPHASERVE TECHNOLOGIES, 104)
WEST 40TH STREET, NEW YORK, NEW YORK ("THE ALPHASERVE SERVER"))

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Southern District of New York (identify the person or describe the property to be searched and give its location):

See Attachment A2

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

See Attachment B2

The search and seizure are related to violation(s) of (insert statutory citations):

Securities fraud, in violation of Title 15, United States Code, Sections 78(b) and 78ff and Title 18, United States Code, Section 1348; mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; conspiracy to commit the above offenses, in violation of Title 18, United States Code, Sections 371 and 1349; money laundering and money laundering conspiracy, in violation of Title 18, United States Code, Sections 1956 and 1957; and violations of the Internal Revenue Laws (codified in Title 26 of the United States Code)

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before March 12, 2019

(not to exceed 14 days)

[x] in the daytime 6:00 a.m. to 10 p.m. [] at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the Clerk of the Court.

[] Upon its return, this warrant and inventory should be filed under seal by the Clerk of the Court. USMJ Initials

[] I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) [x] for 30 days (not to exceed 30).

[] until, the facts justifying, the later specific date of

Date and time issued: 2-27-19/12:39pm

Judge's signature

City and state: New York, NY

Printed name and title

EXHIBIT B

AO 93 (SDNY Rev. 01/17) Search and Seizure Warrant (Page 2)

Return		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of :		
Inventory of the property taken and name of any person(s) seized:		
Certification		
<p>I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the Court.</p>		
Date: _____	_____	
	<i>Executing officer's signature</i>	

	<i>Printed name and title</i>	

EXHIBIT C



Vision, Value, Trust

Employee Handbook

GPB Capital Holdings , LLC

November 1, 2014

Welcome

Welcome to GPB Capital Holdings LLC

You are here because we believe you will contribute directly to our growth and success, and we hope you will take pride in being a member of our team. We place the interest of our clients first with a core belief that alternative investments should be a basic fundamental building block of every investor's portfolio.

GPB Capital is committed to providing a respectful, safe and productive workplace for our employees because we believe happy employees are critical to our continued success and reputation in the marketplace.

The goal of this Handbook is to provide you information about how GPB Capital operates and what is expected of you as an employee. It is your responsibility to read and understand the Company policies. Please know that if you have questions about a policy, it is your responsibility to ask your supervisor or manager for clarification. Unless you tell us otherwise, we will assume you understand each of the policies in this Handbook.

While we hope this Handbook will give you guidance on the basic terms of your employment, these policies are not intended to create a contract. In addition, understand that your employment relationship with GPB Capital is "at-will," meaning that either you or GPB Capital may terminate the employment relationship at any time, with or without advance notice, for any or no reason. Nothing in this Handbook is intended to create an express or implied contract of employment for any particular length of time, and it should not be construed or interpreted to do so by anyone.

Moreover, business needs are constantly changing, and we regularly review and revise our Handbook to ensure it best serves the interests of the Company and our employees and complies with current law. To that end, the Company reserves the right to amend, eliminate, or supplement any of the policies and procedures set forth herein at any time. We will make every effort to notify you of any changes to the Employee Handbook as soon as possible.

We hope that your experience at GPB Capital will be challenging, enjoyable, and rewarding.



GENERAL WORKPLACE POLICIES

AT-WILL EMPLOYMENT

All employees at GPB Capital ("Company") are at-will employees unless Senior Management of the Company has signed a written agreement stating otherwise.

It is important that you understand what it means to be an at-will employee of GPB Capital. It means that either you or the Company is free to terminate the employment relationship at any time, with or without notice, and with or without any reason.

EQUAL EMPLOYMENT OPPORTUNITY

GPB Capital does not make employment decisions based on race, color, religion, sex, pregnancy, national origin, age, disability, sexual orientation, citizenship status, veteran status, genetic information, or any other characteristic protected by applicable federal, state or local law.

GPB Capital's equal opportunity policy extends to all terms, conditions, and privileges of employment and includes all employment actions such as hiring, promotions, compensation, benefits, discipline, and termination of employment.

Any employee who believes he or she has been the victim of discrimination of

any sort should promptly report this behavior to his or her supervisor or Human Resources, who will take appropriate action. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

GPB Capital will not tolerate retaliation against any employee for making a complaint of unlawful discrimination.

REASONABLE ACCOMMODATIONS

GPB Capital will make reasonable accommodations for qualified individuals with disabilities unless doing so would result in an undue hardship. Employees who believe they might need an accommodation for a disability should notify the Company so that the request for accommodation can be evaluated and an accommodation provided where appropriate. Human Resources may ask the employee to provide medical documentation about his/her disability and limitations in order to help identify an appropriate accommodation. It is the responsibility of the employee to ensure that all such documentation is provided to a member of Human Resources in a timely manner.

NO HARASSMENT

GPB Capital is committed to providing a work environment that is free from harassment based on an individual's sex, race, color, national origin, age, religion, disability, or any other legally protected characteristic. GPB Capital does not tolerate any form of harassment, whether it be visual, verbal, physical, or any other conduct that ridicules, derides or otherwise negatively references an individual's sex, race, color, national origin, age, religion, disability or other any legally protected characteristic.

Sexual harassment is a form of harassment that includes unwanted sexual advances, or visual, verbal, or physical conduct of a sexual nature. GPB Capital prohibits sexual harassment against an employee by supervisors, employees, and non-employees that an employee comes into contact with by virtue of his or her employment. The following is a non-exclusive list of sexual harassment examples:

- Unwanted sexual advances or propositions
- Offering employment benefits in exchange for sexual favors
- Making or threatening reprisals after a negative response to sexual advances



- Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters
- Verbal conduct that includes making or using derogatory comments, epithets, slurs, or jokes
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations
- Physical conduct that includes touching, assaulting, or impeding or blocking movements

If you experience or witness sexual or other unlawful harassment in the workplace, report it immediately to your supervisor. If the supervisor is unavailable or you believe it would be inappropriate to contact that person, you should immediately contact any other member of management or Human Resources. You can raise concerns and make reports without fear of reprisal or retaliation.

All allegations of sexual or other types of harassment will be quickly and discreetly investigated. To the extent possible, your confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. If the Company determines that an employee has violated this policy, prompt and appropriate remedial action will be

taken in accordance with the circumstances, up to and including immediate termination of the individual found to have violated the policy.

GPB Capital prohibits any form of discipline or retaliation for reporting in good faith the incidents of harassment in violation of this policy, pursuing any such claim, or cooperating in the investigation of such reports.

EMPLOYMENT CATEGORIES

GPB Capital employees fall into one of the following employment classifications. None of these classifications guarantees employment for any specified period of time or otherwise alters the at-will nature of your employment.

Exempt/Non-exempt: All employees are classified as either exempt or non-exempt under the Fair Labor Standards Act (FLSA) and applicable state law. Employees who are classified as exempt do not receive compensation for overtime hours. Employees who are classified as non-exempt do receive compensation for overtime hours. Employees who have any questions regarding their classification should contact Human Resources.

Regular, Full-Time Employees: Regular, full-time employees are those who are not working on a temporary status and who are regularly scheduled to work 40 or more hours per week. Generally, they are eligible for employee benefit programs, subject to

the terms, conditions, and limitations of each benefit program.

Regular, Part-Time Employees: Regular, part-time employees are those who are regularly scheduled to work less than 40 hours per week. Part-time employees receive all legally mandated benefits (such as Social Security and workers' compensation insurance). Part-time employees who are regularly scheduled to work 30 or more hours per week may be eligible for employee benefit programs, subject to the terms, conditions, and limitations of each benefit program. Employees who are regularly scheduled to work fewer than 30 hours per week generally are not eligible for employee benefit programs.

Probationary Employees: Probationary employees are those who have been employed with GPB Capital for less than 90 days. Generally, they are eligible for employee benefit programs, subject to the terms, conditions, and limitations of each benefit program.

CHANGES IN PERSONAL INFORMATION

It is your responsibility to notify GPB Capital of any changes in your name, address, telephone numbers, number of dependents, emergency contacts, and educational accomplishments. It is important that this information be accurate at all times. If GPB Capital does not have accurate information, you



may experience a delay in receiving important materials such as documents you need to file a tax return and information relating to health insurance benefits.

PROBATIONARY PERIOD

New and re-hired employees go through a probationary period for the first 90 days of employment. This time period gives you the opportunity to demonstrate your ability to meet GPB Capital's performance standards and decide whether the position meets your expectations. During the first 90 days, your supervisor will evaluate your capabilities, work habits and overall performance. You may be eligible for GPB Capital's employee benefits programs during this period, depending on the terms of the policy and program as changed from time to time.

Remember, though, that employment by GPB Capital is "at-will" even during the probationary period. This means that either you or the Company may end the employment relationship at any time for any reason or for no reason, including any time during or after the probationary period. Your successful completion of the 90-day probation period is not a guarantee of future employment.

BACKGROUND CHECK

In order to comply with federal regulations for security in our industry and as a condition of employment, GPB requires that all applicants and

employees submit to a background check both prior to employment and as necessary during your employment. This will require you to consent to a background check of your criminal and/or credit history, to submit to a fingerprint search, and to provide a detailed list of banking and brokerage accounts. Failure to consent to a background check or to meet the federal regulations' security requirements will result in discipline up to and including termination of employment. GPB Capital will perform the background checks in compliance with applicable federal and state law.

IMMIGRATION LAW COMPLIANCE

GPB Capital will only employ those individuals who are legally authorized to work in the United States in compliance with applicable immigration and employment law. As a condition of employment, every individual must provide satisfactory evidence of his or her identity and legal authority to work in the United States. The most common forms of identification are a driver's license and social security card; however, other approved official forms of identification may be used.

OUTSIDE EMPLOYMENT

GPB Capital asks its employees to dedicate the time, talent, and energy necessary to do their jobs well and meet the needs of our clients. Employees may engage in

outside employment only if the outside employment does not create actual or potential conflicts of interest, is compliant with all applicable laws, regulations and rules, and only to the extent that doing so does not interfere with the employee's productivity and effectiveness in their position at GPB Capital. GPB Capital and its associated Broker-Dealer are required to disclose all outside business activities as a condition of employment.

Employees may never accept outside employment with any company or organization that does business with or is a competitor with GPB Capital.

Employees who wish to obtain outside employment must inform their supervisor of the nature of the outside employment and obtain written authorization from the Company to do so. This is so the Company may ensure it is doing what it should to avoid actual or potential conflicts of interest and all outside business activities must be reported and approved by the Broker-Dealer. Violating this policy may result in discharge.

PARKING

Employees must park in areas designated for employees. Employees may not park in any spots designated for visitors to the building.

If you need to park in a specific area due to health or medical reasons, please communicate this need to Human Resources.

SOLICITATION AND DISTRIBUTION POLICY

Employees may not solicit other employees' support for causes during working time for any purpose. "Working time" includes the working time of both the employee doing the soliciting and the employee to whom the soliciting is being directed. Working time does not

include break periods, meal periods, or any other specified periods during the workday when employees are properly not engaged in performing their work tasks.

Employees may not distribute advertising material, handbills, or printed or written literature of any kind related to causes during working time. Employees may not

distribute such materials at any time in working areas or through Company e-mail.

Persons who are not employed by the Company may not solicit or distribute advertising material, handbills, or printed or written literature of any kind on GPB Capital's premises at any time for any purpose.

EMPLOYEE BENEFITS AND LEAVE

BENEFITS OFFERED

GPB Capital offers a variety of benefits, some of which are discussed below. Employees are entitled to participate in benefit plans for which they qualify. To determine which plans you are eligible for, you should ask your supervisor for a copy of paperwork that explains the employee benefit plans and the eligibility rules.

PAID TIME OFF BENEFITS

GPB Capital offers regular, full-time "Exempt" employees the benefit of 120 hours of paid time off ("PTO") annually. The PTO program combines time-off for vacation or personal time (80 hours) and sick time (40 hours) into one overall PTO account. Therefore, you must use your accrued PTO for any absence including vacation, your illness or that of a family member, personal matters or religious observances.

PTO starts each year at 120 hours for eligible employees and is available on the first payday of each month. To be eligible for PTO, employees must be classified as "Exempt", full-time employees. In addition, employees who are absent for more than 2 weeks during any given month will not be eligible to receive PTO hours for that month. Employees who have been employed on record with GPB Capital for more than 5 years are eligible to receive up to 160 hours of PTO per year, but no more than 2 weeks in a given month. *GPB Capital does not compensate employees for any accrued, but unused PTO at the time of separation of employment.*

NEW YORK CITY EARNED SICK TIME POLICY

Full time, part-time, and temporary employees who are employed for more than 80 hours in a calendar year

in New York City will be eligible to accrue paid sick time under the New York City Earned Sick Time Act on the following basis.

Accrual of Paid Sick Time

- i. Employees will accrue one hour of paid sick time for each 30 hours worked, to a maximum of 40 hours of sick time per calendar year. For purposes of this Policy, a calendar year is defined as January 1 to December 31.
- ii. Employees who are employed as of April 1, 2014 will begin to accrue sick time under this Policy as of that date. Employees who are hired after April 1, 2014 will begin to accrue sick time under this Policy at the commencement of their employment with the Company.
- iii. For purposes of this accrual, exempt employees are presumed to work forty (40) hours per week, unless their

regular work week is less than forty (40) hours, in which case sick time accrues based upon their actual work week.

Use of Paid Sick Leave

- i. Employees employed as of April 1, 2014 may utilize accrued sick time on or after July 30, 2014. Employees hired after April 1, 2014 may utilize accrued sick time on or after the 120th day after the commencement of their employment with the Company.
- ii. Employees may use up to a maximum of 40 hours of sick time under this Policy per calendar year. Any additional absences will be governed by other leave policies (e.g., the Federal Family and Medical Leave Act).
- iii. Sick time may be used in increments of a minimum of four (4) hours to cover all or part of a shift.
- iv. Sick time under this Policy may be used for the following qualifying situations:
 - a) An employee's mental or physical illness, injury or health condition (including medical diagnosis, medical treatment, and/or preventive medical care);
 - b) An employee's family member (as defined below) requires care associated with a mental or physical illness, injury or health condition (including medical diagnosis, medical treatment, and/or preventive medical care); or

- c) An absence from work due to:
 - i. Closure of the employee's place of business by order of a public official due to a public health emergency; or
 - ii. An employee's need to care for a child whose school or childcare provider has been closed by order of a public health official due to a public health emergency.
- d) If an employee is absent due to a reason not covered by this Policy, the employee must follow the Company's standard attendance procedures pursuant to the Absence and Lateness Policy.
 - i. Sick time will be paid at the eligible employee's regular rate.
 - ii. Sick time taken under this policy will run concurrently with all other leave under local, state and federal law, except where otherwise prohibited by law.

Definitions

- i. Family member: Means (a) spouse; (b) domestic partner; (c) child of the employee or of the employee's spouse or domestic partner; (d) parent of the employee or of the employee's spouse or domestic partner; (e) grandchild; (f) grandparent; or (g) sibling.

- ii. Child: Means (a) biological, adopted or foster child; (b) a legal ward; or (c) a child of an employee standing in the place of a parent.
- iii. Parent: Means (a) biological, foster, step- or adoptive parent; (b) a legal guardian of an employee; or (c) a person who stood in the place of a parent when the employee was a minor child.
- iv. Grandchild: Means a child of an employee's child.
- v. Grandparent: Means a parent of an employee's parent.
- vi. Sibling: Means an employee's brother or sister, including half-siblings, step-siblings, and siblings related through adoption.

Scheduling Paid Sick Time

- i. An employee should provide seven (7) days advance notice of the employee's need to use sick time under this Policy. If the need to use sick time is not foreseeable, the employee should provide notice as soon as practicable to the employee's supervisor, consistent with the Company's Absence and Lateness Policy.
- ii. If an employee uses paid sick time for more than three (3) consecutive work day absences, the Company may request reasonable documentation. Reasonable documentation for sick time used because of an employee's own illness



or to care for a family member shall consist of a signed statement by a licensed health care provider indicating that the amount of sick time taken was necessary.

- iii. The Company may deny a request for sick time if an employee fails to provide documentation or notice in accordance with this Policy. Furthermore, any employee found to be using sick time for purposes other than those described in this policy or as permitted by New York City law, will be subject to disciplinary action up to and including termination of employment



Carryover of Sick Time

- i. Up to forty (40) hours of accrued, unused sick time may be carried over to the following year. However, employees will be allowed to use only forty (40) hours of sick time in a calendar year.

Separation from the Company and Unused Sick Time

Employees will not be compensated for any accrued but unused sick time upon termination, resignation, retirement, or other separation from the Company. However, if an employee is reinstated within six (6) months of separation from the Company, the employee shall be entitled to use previously accrued sick time immediately upon reinstatement.

USING PTO BENEFITS

Non-exempt employees may use PTO in increments of one hour. Exempt employees must use PTO in increments of four hours or eight hours.

To use PTO, you should submit a written request to your supervisor so that you can receive approval for the absence. For planned absences such as vacations or appointments, you must make a request to use PTO at least two weeks' in advance. GPB Capital will attempt to grant the absence that you requested, but that will depend on business needs. For unplanned absences such as illness, you must make the request with as much advance notice as possible.

Once you have received approval to use PTO from your supervisor, you must submit your approved PTO request to Human Resources so that GPB Capital can track and maintain your PTO bank. Failure to submit your PTO approval to Human Resources may result in discipline up to and including termination of employment.

If you do not have sufficient PTO but believe you need to be absent for a health-related reason, you should contact Human Resources immediately.

HOLIDAYS AND HOLIDAY PAY

Eligible employees, as described below, will be paid for a full work day on each of the following holidays even if they do not work. This means that hourly employees receive 8 hours' pay. Salaried exempt

employees are paid at their normal rate for all holidays.

- New Year's Day (January 1)
- Memorial Day (Last Monday in May)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Thanksgiving and the Friday after Thanksgiving (Fourth Thursday and Friday in November)
- Christmas Eve 1/2 Day until Noon EDT (December 24)
- Christmas (December 25)

A holiday that falls on a Saturday will be observed the Friday immediately preceding. A holiday that falls on a Sunday will be observed the following Monday.

In order to be eligible for holiday pay, you must meet the following requirements:

- Must have worked at least sixty (60) days as a regular, full-time employee
- Must work the last working day before the holiday and the first working day following the holiday, unless time off on these days is pre-approved by your manager.

If you are on hourly employee and are required to work on a designated holiday, you will be paid your regular rate of pay for the time you work that day and you will receive the holiday pay.

If a holiday falls during your pre-approved vacation time, you will receive holiday pay

on the designated holiday instead of vacation pay.

LACTATION ACCOMMODATION

GPB Capital will provide a reasonable amount of unpaid break time, or permit an employee to use paid break or meal time, each day to accommodate an employee desiring to express breast milk for the employee's nursing child up to 3 years following the child's birth. The Company will make reasonable efforts to provide a room or other location in close proximity to the employee's work area for the employee to express milk in private. If you are in need of such an accommodation, please contact management as soon as possible, preferably prior to your return to work following the child's birth, so that any necessary arrangements can be made. Discrimination of any kind against an employee who chooses to express breast milk in the workplace is prohibited.

AT-WORK INJURIES AND WORKERS COMPENSATION INSURANCE

GPB Capital subscribes to workers' compensation insurance to employees.

Employees who sustain work-related injuries or illnesses should inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately so that necessary treatment, if any, can be obtained. Failure to immediately notify the Company of a work-

related injury may result in disciplinary action, up to and including termination of employment.

BEREAVEMENT LEAVE

Regular full-time and regular part-time employees will be granted up to three (3) days of paid leave in the event of a death in the employee's immediate family. Should such a circumstance arise the employee is encouraged to immediately inform their manager before such a leave is taken. For this purpose, in New York, an immediate family member is the employee's spouse, domestic partner (includes same-sex committed partner), parent, parent-in-law, sons and daughters-in-law, child, sister or brother, step-parents, step-children, step-siblings, grandparents, grandchildren or a relative or companion who is a member of the employee's household. This also includes the domestic partner's child, parent, siblings, grandparents, grandchildren. A request for bereavement leave due to the death of any other individual should be submitted to Human Resources and will require the approval of your manager.

VOTING

The Company encourages all eligible employees to participate in the public election process by voting. Employees will be allowed "sufficient" time off from work to vote, unless such time exists during non-working hours. Four consecutive non-working

hours while polls are open is generally deemed "sufficient." Your time off from work to vote will be paid for up to 2 hours. The remainder will be unpaid. The time off to vote must be taken at the beginning or end of the workday, unless mutually agreed upon otherwise. If you would like to take time off from work to vote, you must request such time off at least 2 work days prior to Election Day.

COURT ATTENDANCE

If you are subpoenaed to appear in court to testify as a witness in a case, you will be granted time off without pay for the time you are required to be away from work. If you receive a subpoena, please show it to your supervisor immediately so that operating requirements can be addressed.

JURY SERVICE

The Company has a strong belief that all employees should fulfill their civic responsibility. Any employee called to serve on a jury will be granted time off. Employees are required to provide proof of jury duty and time served. Salaried, exempt employees are paid on the basis of whichever is greater: (1) for any time missed for jury service for a maximum of four (4) days of jury service or (2) the first forty dollars (\$40) of such employee's daily wages during the first three days of jury service. Hourly, non-exempt employees and part-time employees will be paid the first forty dollars (\$40) of such employee's daily wages during the first three

(3) days of jury service. If you are called for jury duty, you must present the jury summons to your supervisor within forty-eight (48) hours of receipt. You must make every effort to report for work if you are released from jury duty before the end of our workday, unless otherwise required by law. Upon completion of jury service, you are generally expected to return to work the next business day.

EDUCATIONAL ASSISTANT

The Company may offer tuition reimbursement for certain pre-approved certification programs or other educational opportunities. These are solely at the discretion of management and the treatment may change from time to time.

CRIME VICTIM/ WITNESS LEAVE

Employees are permitted unpaid leave to attend court proceedings, consult with the district attorney, or exercise rights provided by law in the following circumstances:

- the employee is a victim of an offense, or the victim is the employee or the employee's next of kin, or the employee is a deceased victim's representative, a good Samaritan, or pursuing an application or enforcement of an order of protection under the criminal procedure law or family court act; or
- the employee is subpoenaed to attend a criminal proceeding as a witness.

You must notify the Company of your intent to appear as a witness prior to the day of attendance. You must provide written certification of your service by the party who sought your attendance. You may elect to use your accrued PTO for this absence.

LEAVE FOR BLOOD DONATION

An employee who works at least 20 hours per week is permitted up to three hours of unpaid leave during the employee's regularly scheduled work hours per 12 month period to donate blood. Retaliatory employment actions directed against an employee for requesting or obtaining leave pursuant to this policy are prohibited.

BONE MARROW LEAVE

Employees who work an average of at least 20 hours per week are eligible for an unpaid leave of absence to undergo a medical procedure to donate bone marrow or to determine if the employee is a proper donor. The combined length of leave is to be determined by the employee's physician but cannot exceed 24 work hours unless otherwise agreed to by the Company. Employee must submit verification by a physician for the purpose and length of each leave requested to donate bone marrow. Employees may use accrued PTO for this purpose. Retaliatory employment actions directed against an employee for requesting or obtaining leave pursuant to this policy are prohibited.

UNPAID PERSONAL LEAVE

GPB Capital recognizes that there may be occasions when an employee's need to address family or health issues or otherwise attend to compelling personal issues outside of the workplace may call for an extended leave of absence. Under these circumstances, employees may request an unpaid personal leave of absence.

Employees must request a personal leave of absence with as much advance notice as possible and must provide specific information about the planned duration, date of return, benefits payment arrangements and any other specific information to enable the administration of personal leave.

GPB Capital will consider an employee's request for leave on a case-by-case basis and will weigh the employee's need for leave against the potential impact to the business considering the circumstances at the time of the request. GPB Capital retains complete discretion to approve or deny employee requests for personal leave.

If a request for leave is granted, upon return, GPB Capital will make reasonable efforts, subject to staffing and business requirements, to restore the employee to his or her original job or an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Failure to return from an approved personal leave of absence as scheduled may result in discipline up to and including termination of employment.

MILITARY LEAVE

GPB Capital is proud of those who commit to service of our country in the military or other uniformed services. Our first obligation as an employer is to make sure that those friends and colleagues who are engaged in qualifying activities are able to leave their employment with the knowledge that their affairs are in order and their rights protected. The Uniformed Services Employment and Reemployment Rights Act ("USERRA") provides many important rights and benefits for employees who perform military duty. It is GPB Capital's policy to comply with all requirements of USERRA and other state and federal laws related to military service. If you should require leave for uniformed service, please contact your supervisor as early as possible to learn more about your rights and make any necessary arrangements for your leave.

LEAVE FOR MILITARY SPOUSES

An employee who works at least 20 hours per week and is the spouse of a member of the armed forces of the United States, national guard, or reserves who has been deployed during a period of military conflict (as that term is defined by applicable law) to a combat theater or combat zone of operations, is permitted up to ten days of unpaid leave by the Company. Such leave shall only be used when the employee's spouse is on leave from the armed forces of the United States, National Guard, or reserves while deployed during a period of military conflict to a combat theater or combat zone of operations. Retaliatory employment actions directed against an employee for requesting or obtaining leave pursuant to this policy are prohibited.



PAY AND PAYROLL

RECORDING TIME WORKED

It is GPB Capital's policy and practice to accurately compensate employees and to comply with all applicable federal and state laws regarding how employees are paid. Consistent with this policy, non-exempt

employees must accurately record all hours worked. Hours worked means all the time spent by employees actually performing job duties. If an employee makes an error in recording his or her hours worked, the error should be promptly reported so that it can be corrected.

Employees are strictly prohibited from falsely recording their time, either by under or over reporting their hours worked. Each employee must complete his or her own time record daily. Employees are also prohibited from altering the time records of other employees.

Employees are also prohibited from working "off-the-clock," i.e., performing job duties without recording the time. No employee may perform work if they are not clocked in. That includes time that an employee is clocked out for lunch break. No supervisor or any other GPB Capital employee may instruct an employee to work "off-the-clock." If you believe this has occurred, you should immediately report the incident to Human Resources.

OVERTIME

All employees considered non-exempt under federal and state law who are required to work more than 40 hours during a work-week receive overtime pay at one and one-half times their regular rate of pay for hours worked in excess of 40 in a work-week.

Hours worked for purposes of determining whether an employee works overtime means time actually spent on the job. It does not include hours away from work due to vacation, sickness, or holiday even where those days are compensated. So, for example, if you actually work 40 hours during a week in which you also receive eight (8) hours of holiday or vacation pay, you are not entitled to overtime pay, even though you will be paid for 48 hours during that particular week.

When required by business demands, the Company can require any employee to work overtime. The Company attempts to give as much notice as possible

when overtime must be worked, but reserves the right to require any employee to work overtime when the need arises.

All non-exempt employees must receive authorization in advance from your supervisor prior to working overtime. If an employee works overtime without obtaining authorization in advance from one of these individuals, the employee will be paid at the proper overtime rate for the unauthorized overtime. However, the employee may be subject to disciplinary action, up to and including termination of employment, for working unauthorized overtime.

TRAVEL AND REIMBURSEMENTS

Air Travel

RESERVATION PROCEDURES: It is required that reservations for trips requiring air travel be made by the Office Manager (or traveler) online at least two weeks prior to travel. Travelers will use best efforts to research all travel options and purchase the lowest appropriate airfare available.

LAST MINUTE TRAVEL: Travel arrangements that are made less than two weeks prior to the required travel are considered "last minute travel" and require approval of the Managing Director of Operations via urgent email. If approval isn't received within 30 minutes, traveler should text and call immediately.

CLASS OF SERVICE: All individuals traveling on GPB business must travel in

coach class unless using a free upgrade or have prior approval from the Managing Director of Operations.

The following criteria will be utilized to determine lowest available airfare:

- The flight's departure or arrival time is within two hours before the requested departure or arrival time;
- Travelers may not specify a preferred carrier if a significantly lower cost fare is available.

BAGGAGE FEES: Baggage fees will be reimbursed.

CHANGE FEES: Rebooking or change fees will be reimbursed for emergency situations only with prior approval of the Managing Director of Operations.

Lodging

Accommodation Selection FOR EVENTS (QUARTERLY MEETINGS, ADVISOR CONFERENCES, and DUE DILIGENCE): The Marketing Specialist is responsible for making the hotel arrangements for the sales personnel during a particular meeting or event.

ROOM TYPE: Employees and external wholesalers will compare rates and/or book rooms on Hotwire, Hotels.com, or Expedia. The field team is encouraged to share rooms when appropriate and treat Company expenses as if they are your own. Unless otherwise specified, a standard non-smoking room is automatically reserved.

ADVISOR MEETINGS: The Capital Markets team managing the meeting should book hotel rooms at the best rate available for a standard room. Rooms in



excess of \$250 per night must have prior approval by the Managing Director of Operations.

OTHER TRAVEL: For all other business travel, e.g., client meetings, branch office visits, etc., employees are expected to adhere to all the aforementioned lodging policies.

Wholesalers and employees will be reimbursed for accommodations upon submission of their expense report.

Transportation

CAR RENTALS: Cars should be rented by individuals on Company business only when other forms of transportation are unavailable, more costly, or impractical. Travelers must obtain the most competitive rate available.

SIZE LIMIT: All rentals should be for intermediate size cars or smaller, unless 3 or more people are traveling together or if an upgrade is provided by the rental company at no cost.

CAR RENTAL INSURANCE: Travelers paying for a rental car using a credit card may receive limited loss and damage coverage through the credit card company or through their personal insurance and should review the terms of such coverage. Options for insurance should be researched prior to renting a car and unnecessary optional coverage avoided. If renting a vehicle outside of North America, purchasing optional insurance may be mandatory.

REFUELING: When renting cars, individuals are required to refuel cars prior to returning them to the

rental company.

PERSONAL CAR: Travelers may utilize personal cars for Company business travel if it is less expensive than renting a car, taking a taxi, or using alternate transportation. The use of personal cars for business will be reimbursed at the standard rate set by the IRS Mileage Reimbursement Rates. This mileage allowance covers all auto costs (e.g. gasoline, repairs, insurance, etc.) other than parking and tolls. The current reimbursement can be viewed on the IRS website at:

<http://www.irs.gov/2014-Standard-Mileage-Rates-for-Business,-Medical-and-Moving-Announced>

AIRPORT PARKING: Travel to and from your local airport is not reimbursable, but parking fees are fully reimbursable.

NOTE: When being reimbursed for mileage, the cost of refueling is included and not separately reimbursed.

PERSONAL CAR VERSUS AIR TRAVEL: A traveler may use surface transportation for personal reasons even though air travel is the more appropriate mode of transportation. The total cost of personal car travel must not exceed the cost of airfare, based on the lowest regular coach fare available for the location of travel from a standard commercial air carrier plus, transportation costs to and from the airports and end destination.

RIDE SHARING: If two or more individuals are traveling to the same location, it is recommended that the

travelers share a ride.

RAIL: All rail transportation must be in economy class and local rail service.

TAXIS AND OTHER LOCAL TRANSPORTATION: The cost of taxis to and from places of business, hotels, airports or railroad stations in connection with business activities is reimbursable.

Meals and Entertainment

PERSONAL MEAL EXPENSES: Meal expenses incurred by those traveling on GPB business when dining alone. Personal meals must be itemized by meal and will be reimbursed up to \$60/day and include breakfast, lunch, dinner and any snacks, drinks, etc. This amount is based on an average of the IRS regulations published at <http://www.irs.gov/pub/irs-drop/n-13-65.pdf>. Amounts incurred in excess of the per diem will be the obligation of the traveler. Cost of alcoholic beverages will not be reimbursed. Tips up to 20% are allowable.

ENTERTAINMENT: Wholesalers and employees incur meal and entertainment expenses while dining with current and potential advisors interested in developing a relationship with GPB. Entertainment expenses must include the itemized receipt and will be reimbursed up to \$100 per person per event. Tips up to 20% are allowable.

SPECIAL EVENTS: Any single expense or series of expenses that result in total meals and entertainment expenses more than \$500 per day requires PRIOR pre-approval of the Managing Director of Operations. This includes golf outings,

restaurants, nightclubs, shows, etc.

HOTEL SURCHARGES: Phone calls from hotels should be avoided and are not reimbursable.

INTERNET: Internet connection in hotels and airplanes is reimbursable up to \$20 per day.

MOBILE PHONE: Mobile phones are reimbursed up to \$100 per month.

PAYMENT AND DOCUMENTATION: Travelers must submit expense reports no more than forty-five days after completion of travel and the following guidelines must be applied:

- Receipts must be submitted for all expenses via scanner or iPhone photo
- Meal expenses must be itemized per meal on the expense report
- When being reimbursed for mileage, actual mileage to and from destination are required.

Completed expense reports must be signed and submitted via email within 45 days of the expense, to vmcdonough@gpb-cap.com with cc to your immediate supervisor.

PAY DEDUCTIONS

The law requires that GPB Capital make certain deductions from every employee's compensation. Among these are applicable federal, state, and local income taxes and Social Security taxes. GPB Capital also offers programs and benefits beyond those required by law. Eligible employees may voluntarily authorize deductions from their paychecks to cover the costs of participation in these programs.

GPB Capital prohibits deductions from exempt employees' compensation except as allowed by law. If an employee is aware of improper deductions from an exempt employee's compensation, this concern should be reported immediately to Human Resources. All reported or suspected improper deductions from an exempt employee's compensation will be investigated promptly and thoroughly. If the Company determines that an improper deduction was made, it will reimburse the employee promptly for the amount improperly deducted.

WORKWEEK

GPB Capital's work-week begins on Monday at 12:00 a.m. and ends on Sunday at 11:59 p.m. This is the time period used for purposes of determining an employee's hours worked each week, including overtime hours.

FINAL PAYCHECK

If you voluntarily resign, you will receive your paycheck on the next regularly scheduled payday. If you are terminated, you will receive your final paycheck within six (6) calendar days after your termination date.

QUESTIONS REGARDING PAY OR TIMEKEEPING POLICIES

If you have any questions about these policies or how they are or have been applied, please contact Human Resources. Employees will be expected to comply fully with GPB Capital's pay and timekeeping policies, which includes accurately recording their time. The failure to do so may lead to disciplinary action, up to and including termination of employment.

STANDARDS FOR WORKPLACE CONDUCT

PERFORMANCE REVIEWS

GPB Capital strives to employ the most competent employees and to provide to all employees the support

and opportunity needed to excel. All regular, full-time employees will receive a formal performance review on an annual basis from their immediate supervisor. In addition to the formal

review, supervisors and managers will provide ongoing discussion and feedback to improve performance and enhance development.

The performance review will note your accomplishments for the year, identify goals for the year to come, and address any areas that need improvement. The rating and evaluation you receive may be used to determine salary adjustments and other employment decisions.

WORKPLACE ADMINISTRATION

The Company administers routine management through an organizational chart of designated responsibilities, assigned performance statistics by positions, coordinating bodies of managerial memberships, and other common managerial practices all to guide, manage and ensure Company business success. Each employee is required to participate in the administrative methodologies as implemented by Company management and take the initiative from their position on the team to help in the success of the Company through supportive use of these means.

CODE OF ETHICS

GPB Capital holds all its employees to the highest standards of ethical conduct. You will be provided GPB Capital's Code of Ethics at the outset of your employment, and it will be available to you at any time upon request to Human Resources. You are responsible for reading, understanding and complying with the standards discussed in the Code of Ethics. Failure to do so will result in disciplinary

action up to and including termination of employment.

EMPLOYEE MISCONDUCT

To ensure orderly operations and provide the best possible work environment, GPB Capital expects employees to meet standards of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. Generally, the Company expects employees to exercise common sense and good judgment. Conduct that is dishonest, insubordinate, or illegal cannot and will not be tolerated.

The following list of prohibited conduct is not all-inclusive, but it should give you an idea of what the Company expects and provide examples of conduct that may result in disciplinary action, up to and including termination, depending on the circumstances.

- Theft or inappropriate removal or possession of GPB Capital property, property of fellow employees or of our clients.
- Unauthorized access to Company or client information not provided to you by your supervisor or management.
- Falsification of records.
- Unauthorized disclosure of confidential information.
- Deliberate misuse,

destruction or abuse of Company property.

- Violation of the Sexual and Other Unlawful Harassment policy.
- Working under the influence of alcohol or illegal drugs or any violation of the Substance Abuse Policy.
- Fighting or threatening violence in the workplace.
- Possession of firearms or any illegal weapon on GPB Capital premises or while conducting Company business.
- Insubordination or other disrespectful conduct.
- Excessive absenteeism or tardiness.
- Disrespectful, disruptive or otherwise unacceptable interactions with clients or coworkers.
- Unreasonable violation of the Code of Ethics.

The list above is not exclusive, and other misconduct may also warrant discipline up to and including termination. If an employee is terminated for violating GPB Capital policies, they will not be considered for re-hire.

LAWFUL OFF-DUTY ACTIVITIES

GPB Capital will not discriminate against any employee who engages in lawful off-duty activities (including the use of legal consumable products, legal political activities, legal recreational activities, or membership in a union or exercise of a right granted under the law), outside of the workplace, during non-



work hours, and without the use of the Company's equipment or other property.

ATTENDANCE

Your attendance at work on time, ready to work, and as scheduled is required. Absenteeism and tardiness places a burden on your coworkers and GPB Capital as a whole. If for some reason you cannot avoid being late to work or are unable to come to work, you must notify your supervisor as far in advance as possible. You should make every effort to speak with your supervisor directly. Excessive tardies or absenteeism may result in discipline up to and including termination of employment.

JOB ABANDONMENT

If you are absent from work for three consecutive days and do not contact your supervisor each of those three days, GPB Capital will consider you to have abandoned your job and will terminate your employment.

PERSONAL APPEARANCE

GPB Capital expects all employees to maintain a clean, neat and professional appearance. Your clothing and personal appearance at work should reflect favorably on the Company and its professional business environment at all times, during work hours while onsite or while in attendance at remote Company meetings or events.

SMOKING

In keeping with GPB Capital's commitment to a safe and healthful work environment, smoking is prohibited on Company premises except in designated smoking areas. Smoking is also prohibited in Company-owned vehicles. This policy applies not just to employees, but also to clients and visitors.

SUBSTANCE ABUSE

GPB Capital's policy is to promote and maintain a safe and healthy workplace. The use of controlled substances or the abuse of alcohol or inhalants is inconsistent with the behavior expected of employees, subjects all employees and visitors to our facilities to unacceptable safety risks, and undermines the Company's ability to operate effectively and efficiently. The unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance or drug paraphernalia in the workplace or while engaged in the Company's business off premises is strictly prohibited.

Being under the influence of a controlled substance, illegal drug, inhalant, or alcohol on Company premises, while conducting Company business, in the Company's vehicles, or during working hours, is prohibited. Employees who violate any aspect of this policy may be subject to disciplinary action, up to and including termination.

Notwithstanding the above prohibition, employees may consume alcoholic

beverages in limited amounts when such consumption is associated with client development or customer entertainment. In these rare situations, employees must exercise good judgment, represent the Company in a professional and suitable manner, and keep any consumption of alcoholic beverages to a minimum.

Employees experiencing problems resulting from drug or alcohol abuse or dependency are encouraged to seek counseling immediately. The Company's health care plan and summary contain information on assistance programs. The Company will offer reasonable support to employees who voluntarily seek and accept professional help prior to any violations of this policy. Such employees may do so without jeopardizing their continued employment, provided they have complied with other applicable policies, immediately cease any use of alcohol or drugs, and strictly adhere to the terms of their treatment and counseling program.

Employee requests for assistance will be treated as confidential to the greatest extent possible.

CRIMINAL CONVICTIONS

If you are convicted of any crime after you become employed by GPB Capital, you must immediately report that conviction to your supervisor.



OPEN DOOR POLICY

When people work together, we know misunderstandings may occur. GPB Capital is committed to maintaining an open door policy to address any problems or misunderstandings that may arise. If such a situation should arise, talk first with your immediate supervisor.

Give your supervisor a chance to work it out with you. If your complaint involves your supervisor, or if you are not satisfied with your supervisor's response, or if for any reason you do not wish to bring the problem to your supervisor's attention, you may present your concern to the Company's

Human Resources. You are encouraged to submit in writing your position with respect to the problem(s) at issue. All parties concerned will be contacted, Company policy will be reviewed, and the Company will attempt to find an equitable solution that is acceptable to all involved.

COMMUNICATIONS & INFORMATION SYSTEMS USAGE

USE OF COMPANY TECHNOLOGY RESOURCES

GPB Capital provides various Technology Resources, including, for example, telephones, cellular phones, computers, email, computer software and hardware, servers, data storage devices, copiers, fax machines, internet access, in addition to other such resources, to authorized employees to assist them in performing their job duties for the Company. Each employee has a responsibility to use GPB Capital's Technology Resources in a manner that increases productivity, complies with the Company's policies, and is respectful of other employees. Failure to follow the Company's policies regarding Use of its Technology Resources may lead to disciplinary action, up to and including termination of employment.

Technology Resources are to be used only for the purpose of conducting GPB Capital business. Employees may, however, use the

Company's Technology Resources for incidental personal uses, so long as such use does not interfere with the employee's duties, is not done for monetary gain, does not conflict with the Company's business, and does not violate any Company policy. The Company assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on the Company's Technology Resources.

Under no circumstances may employees use GPB Capital's Technology Resources to transmit, receive, view, or store any information that is discriminatory or harassing in any way (e.g., sexually-explicit or racial messages, jokes, cartoons, or images or pornographic materials) or that otherwise violates GPB Capital's No Harassment policy.

Employees may not use the Company's Technology Resources to copy, retrieve, forward, or send copyrighted

materials, unless the employee has the author's permission or is accessing a single copy only for the employee's reference.

Employees may not use the Company's Technology Resources for any illegal purpose, violation of any Company policy, or in any way that misuses or discloses confidential or proprietary information of the Company or third parties, or for personal or monetary gain.

All messages sent and received using Company Technology Resources, including personal non-work-related messages, and all data and information stored on the Company's Technology Resources, are Company property regardless of the content. Employees have no right of privacy and should have no expectation of privacy with respect to any messages or information created, maintained, sent, or received on the Company's Technology Resources, including personal information or messages.

The Company may, at its discretion, inspect all files or messages on its Technology Resources at any time for any reason. The Company Compliance Officer may also monitor or authorize third parties to monitor its Technology Resources at any time in order to determine compliance with its policies, for purposes of legal proceedings, to investigate misconduct, to locate information, or for any other business purpose.

All employees should understand that any information kept on the Company's Technology Resources may be electronically recalled or recreated regardless of whether it may have been "deleted" or "erased" by an employee. Because the Company periodically backs up all files and messages, and because of the way in which computers re-use file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential.

SOCIAL MEDIA

GPB Capital acknowledges that social media is a growing part of nearly everyone's daily life both personally and professionally. What you do in your time is generally your own business. Remember, however, that GPB Capital's policies still apply to you if what you choose to do on-line affects your job performance,

affects other GPB Capital employees or otherwise affects GPB Capital's business interests. This is true whether or not you engage in social media activities during work or in off hours, and whether or not you identify yourself as a GPB Capital employee.

This policy is designed to offer guidance on what is recommended, expected, and required of you as part of any social media activity you choose to participate in such as Facebook®, Twitter®, MySpace®, LinkedIn®, YouTube®, blogs, wikis or any other forms of online communication. While there is more detail below, in general, if you choose to use social media, you must use good judgment in deciding the content of any postings, even when posting on your personal time, and be aware of the potential audience you are reaching both at the time of your posting and in the future. When approaching social media, always be respectful, honest, and use common sense.

Due to the evolution of social networking, this policy is subject to change as online communication advances – please review often. Any violation of this policy or any Company policy through the improper use of internal or external social media could result in corrective or disciplinary action, up to and including termination of employment.

Use Good Judgment and Be Respectful. If you choose to participate in social media, use good judgment in your postings and be respectful. You should not post content

that is false, offensive, obscene or harassing. Always remember you are responsible for what you post. If after consulting these guidelines or other policies and you are still unsure, then ask your supervisor. It is better to seek advice now than to deal with the consequences later.

Protect Confidential and Private Information. Make sure you do not use social media to discuss or disclose confidential or private information of the Company or its clients. This includes any information related to the current or future performance of the Company or its clients, including financial information. You must also be respectful of your co-workers. Do not discuss co-workers or post any pictures of co-workers without their permission.

Respect Copyright and Fair Use Laws. Respect appropriate laws governing copyright and fair use concerning materials owned by others, including the Company. Always cite sources in your postings and if possible provide a link to the source.

Remember, the Internet Does Not Forget. Remember, what you post is permanent. Once you post information online, it is a permanent record even if you remove or delete the post. Be conscious of the information you share.

Monitoring. You are responsible for what you say in social media whether your posting is under your name or done anonymously, or while you are at work or when you are off-

duty. As is the case with e-mail, instant messaging and text messaging, the Company reserves the right to monitor any of its technology and you should have no expectations of a right to privacy when using Company technology or equipment. Any posting that violates Company policies or is inappropriate may be modified or removed at the Company's sole discretion.

Be Yourself. If you choose to participate in any online social community, be yourself. The Company discourages anonymous posting. Use your personal email address and identify yourself as a Company employee including a description of your role at the Company. Federal Trade Commission guidelines mandate this disclosure any time you promote the Company's services in any way, including an online recommendation. If you make a mistake, be the first to correct it and you should not alter previous posts without indicating that you have done so.

Keep It Personal. Do not give the appearance you are speaking on behalf of the

Company. Only authorized spokespersons may make statements on behalf of the Company. If posting thoughts on GPB Capital or the industry we work in, use phrases like, "the postings on this site are my own and do not necessarily represent the Company's views or opinions."

Be Productive. Please refrain from using social media in a manner that interferes with productivity. Think about social media in the same way you think about personal phone calls or emails.

Speak Up. Just as you have a duty to report harassment or other inappropriate workplace conduct, you have the same obligation when you see inappropriate conduct when participating in online activities. You are our best monitoring tool; if you see anything inappropriate, offensive, or in violation of this policy, submit your complaints and concerns through the appropriate channels.

Friending. Exercise discretion in inviting coworkers, and responding to invitations from coworkers, to

join social networks or become "friends," and making recommendations or referrals. As between supervisors and subordinates, taking (and, still more, reversing) such steps may be awkward and could even feel coercive. As among peers, while feelings of inclusion can have positive effects on working relationships, the corollary feelings of exclusion can be painful and counterproductive.

Company Policies. When sharing information or engaging in online communication, you should be aware of, and are required to follow, all Company policies.

Nothing in this policy is meant to violate employees' rights to engage in protected concerted activity as set forth in the National Labor Relations Act. Any interpretation and enforcement of this policy shall be done in a way that shall be consistent with employees' rights to engage in such protected concerted activity.



WORKPLACE SECURITY AND SAFETY

COMPUTER SYSTEMS PROTECTION

Computers are prone to viruses, crashes, power surges, and user mistakes that can cause lost data or damage to the computers and computer systems. All messages and files are automatically scanned

for viruses before being introduced into the network, but this does not provide a complete guarantee of protection.

All employees have an obligation to be cautious when opening emails and attachments to emails from unknown sources.

If you have any doubts about opening an email or attachment, please consult with the IT Department.

Here are few important procedures to follow to protect your data as well as all of your hard work:

- Don't open emails or attachments from

unknown sources. Be careful even when opening emails from people you trust; people frequently spread viruses unknowingly;

- Don't download software, files or other items onto a Company computer or system from the internet without authorization from management;
- Keep personal disks, flash drives, CD or DVDs for use on your personal computer only and use Company hardware for Company computers;
- Use passwords that are hard to guess;
- Disconnect from the internet when not in use;
- When in doubt, consult with a member of Management.

CONFIDENTIAL INFORMATION

As part of your work for GPB Capital, you may be given access to confidential information of GPB Capital or its clients that could harm the Company if it were disclosed to individuals outside the Company. Confidential information includes all information that GPB Capital owns or uses and includes, without limitation, its marketing, organizational or business plans, its computer programs, or business improvements, its sales and marketing forecasts, pricing and other nonpublic financial information such as client prospectus, and any other information of clients or prospective clients of GPB Capital, that is not generally known to the public.

In the event you have any question about whether information is confidential, you must treat the information as confidential until you obtain permission to disclose it from your supervisor or management.

You must keep confidential information confidential, both during your employment and after your separation, and only use the confidential information as required to perform your job duties. This means you should not disclose confidential information to coworkers who have no need to know about the information or to persons outside the workplace. Your duty to keep confidential information private lasts as long as the information remains confidential. Your duty to protect and not disclose confidential information exists while you are working for GPB Capital and also after your employment ends.

GPB Capital is required to keep all personal identifying information of all employees confidential. Personal identifying information includes Social Security numbers, addresses, telephone numbers, personal e-mail addresses, internet identification names or passwords, parent's surname prior to marriage, or drivers' license numbers. Specifically, employees must not:

- Publicly post or display an employee's Social Security number;
- Visibly print a Social Security number on any identification badge or card;

- Place a Social Security number in files with unrestricted access; or
- Communicate an employee's personal identifying information to the general public.

Employees must immediately report to Human Resources any violation of this policy. If a violation of this policy occurs, the Company will notify the affected employees in compliance with the applicable laws.

In addition to the foregoing, you may be required to sign a separate agreement regarding confidential information. However, regardless of whether you are required to sign such an agreement, the dissemination of Confidential Information is strictly prohibited. An employee who violates this policy is subject to discipline, up to and including termination of employment. That said, this policy is not intended and will not be used to prevent an employee from exercising any rights under the National Labor Relations Act or any other local, state or federal law.

SECURITY INSPECTIONS

In order to enforce its policies, protect its property and equipment, and investigate thefts, GPB Capital may enter and search your work area, Company vehicle, and other property located on Company premises. GPB Capital may also inspect your purse, bag, or other form of storage. These

searches may be conducted at any time with or without prior notice. Refusal to permit such a search may result in disciplinary action up to and including termination of employment and may result in GPB Capital contacting law enforcement.

VISITORS

Only authorized visitors are allowed in the workplace. This is necessary for safety and security reasons. All visitors should enter at the reception area. Authorized visitors will receive directions and be escorted to the destination. You are responsible for the conduct and safety of your visitors.

In general, family, friends, and former employees should not be invited into the workplace without express permission from management. In cases of emergency, you may meet any visitor outside of the work area.

If you notice an unauthorized individual on Company premises, you should immediately notify your supervisor or management and direct the individual to the reception area.

WEAPONS

Weapons are not permitted on Company premises or in Company vehicles. This policy applies to everyone, even to those who have a valid concealed weapons license. Per Texas law, employees may have lawfully possessed firearms in a locked, privately owned vehicle in the parking lot,

parking garage, or other employer-provided parking area.

Unauthorized possession of a weapon on Company property or while on Company business will lead to disciplinary action, up to and including immediate termination of employment.

WORKPLACE VIOLENCE PREVENTION

The Company is committed to protecting the safety of its employees, visitors, and customers.

Furthering that commitment, the Company will not tolerate the following:

- Physical confrontation;
- Threats to use violence (implicit or explicit);
- Harassment or intimidation (implicit or explicit); and/or
- Possession and/or use of weapons on Company premises.

Violent or threatening conduct will not be tolerated on Company property or while engaged in Company business, regardless of location. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

All employees are responsible for ensuring that the workplace is free from violence, whether by employees or non-employees, at all times. Therefore, complaints of confrontations, threats, harassment, intimidation, or possession of a weapon should be reported

immediately to a member of Human Resources or management.

If you receive a threat not related to your employment with the Company, and you have reason to believe that the threat may be carried out on Company property or while engaged in Company business, you must report the threat to Human Resources or management.

RETURN OF COMPANY PROPERTY AFTER SEPARATION

Any property issued to you by GPB Capital such as software, computer equipment, files, databases, cell phones, keys, building passes or company credit cards must be returned to the IT Department at the time of your termination. You will be responsible for any lost or damaged items, other than normal wear and tear. The value of any property issued and not returned or returned in a damaged state may be deducted from your final paycheck or any expense reimbursement owing, to the extent allowed by law.



EMPLOYEE'S POLICY MANUAL AND HANDBOOK
RECEIPT AND ACKNOWLEDGMENT

I hereby acknowledge receiving a copy of GPB Capital's Employee Policy Manual and Handbook. The Handbook describes important information about GPB Capital. I understand that I am responsible for familiarizing myself with the information contained in this Handbook and any revisions to the Handbook, for following the policies in the Handbook, and that I should ask my supervisor or management any questions about the Handbook.

I have entered into my employment relationship with GPB Capital voluntarily and acknowledge that there is no specified length of employment. Accordingly, either GPB Capital or I can terminate the relationship at-will, with or without cause, at any time. My status as an at-will employee may only be modified pursuant to a written agreement signed by Senior Management of GPB Capital.

I understand that I may be asked to submit to a drug or alcohol test. I acknowledge that if I refuse to submit to the test or fail to cooperate with the testing procedures, I may be subject to disciplinary action up to and including immediate termination of employment.

I acknowledge that this Handbook is not a contract or a legal document. I acknowledge that the information, policies, and benefits described in the Handbook are subject to change, and that revisions to the Handbook may occur, except to the status of employment at-will. All such changes will be communicated through notices, and I understand that the revised information may supersede, modify, or eliminate existing policies. Only GPB Capital has the ability to adopt any revisions to the policies in this Handbook.

Employee's Signature

Date

Employee's Name (Printed)



EMPLOYEE'S POLICY MANUAL AND HANDBOOK
RECEIPT AND ACKNOWLEDGMENT OF GPB CAPITAL'S
SUBSTANCE ABUSE AND DRUG AND ALCOHOL TESTING POLICY

I hereby acknowledge that I have received a copy of GPB Capital's Substance Abuse Policy and Drug Free Workplace Policy (together, the "Policies"). I acknowledge that I have read it, understand it and I agree to abide by its provisions.

I acknowledge that it is a condition of my employment that I submit to a drug screening or testing pursuant to the conditions and under the circumstances set forth in the Policies. I hereby understand and agree to abide by the Policies and agree to fully cooperate in and undergo any drug or alcohol testing requested by the Company. I hereby give my consent to any sample collection or testing which may be performed in connection with the Company applying the Policies to me. I am aware that refusal to take such a test, or a confirmed positive result of such a test, or possession, use, or being under the influence of an illegal drug, or the improper use of a legal drug, or submission of an altered, false, or fraudulent sample, can result in immediate termination of employment with the Company. I acknowledge still further that it is a condition of my employment that I consent and I hereby do consent to a search by the Company of my personal effects, vehicles, lockers, or any other personal property, in order to ensure compliance with these Policies.

Employee's Signature

Date

Employee's Name (Printed)

EXHIBIT C



Vision, Value, Trust