UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SECURITES AND EXCHANGE COMMISSION, **Plaintiff,** **v.** **JAMES G. TEMME,** **STEWARDSHIP FUNDS, LP** **Defendants.**	**Civil Action No. 4:11cv655**

DEFENDANT'S OBJECTIONS
TO DECLARATION OF KEITH MILES AURZADA AND MOTION TO STRIKE

Defendant James G. Temme ("Mr. Temme"), respectfully submits the following objections to the Declaration of Keith Miles Aurzada In Support Of Plaintiff's Motion For Summary Judgment Against Defendants James G. Temme and Stewardship Fund (the "Aurzada Declaration," abbreviated "Aurzada Decl."), and moves to strike the portions to which he objects. In support, Mr. Temme would respectfully show as follows:

I.

LEGAL STANDARDS AND APPLICATION

The Aurzada Declaration reads more like a set of allegations than a declaration. It makes sweeping statements that are blatantly inadmissible, and it relies on speculation, hearsay, and matters that are plainly not within the personal knowledge of the declarant. Most of it is inadmissible and not proper summary judgment evidence.

A. **Summary Judgment Declarations Must Be Admissible And Based On Personal Knowledge.**

Rule 56(c)(4) of the Federal Rules of Civil Procedure requires that **"**[a]n affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." Fed. R. Civ. P. 56(c) (4).

Federal Rule of Evidence 602 requires that the witness have personal knowledge. The burden is on the party sponsoring the evidence to demonstrate that personal knowledge exists. *See First Nat'l Bank v. Lustig*, 96 F.3d 1554, 1576 (5th Cir. 1996). To do so, a declaration must include factual allegations demonstrating that the affiant has personal knowledge. For example, in *Zimmerman v. Gruma Corp*., the plaintiff submitted an affidavit in response to the defendant's motion for summary judgment. 2013 U.S. Dist. LEXIS 87248 (N.D. Tex. June 21, 2013). The affidavit alleged, among other things, that the plaintiff's supervisor,

Crisp, had previously received disciplinary write-ups. *Id*. at *33. The court excluded the statement under Rule 602 because there were no facts affirmatively pled that showed the plaintiff would have personal knowledge of the supervisor's work history. *Id*. ("Plaintiff lists no specific facts to provide a basis for her testimony about Crisp's disciplinary history, such that she was present when the alleged write-up took place, or any evidence to demonstrate that she had personal knowledge of the write-up, and therefore fails to meet the predicate requirements of Federal Rule of Evidence 602."); s*ee also EEOC v. Air Liquide USA LLC*, 692 F. Supp. 2d 658, 667-68 (S.D. Tex. 2010)(striking affidavit statements where affidavit did not include facts demonstrating personal knowledge); *De Luna v. Hidalgo County*, 853 F. Supp. 2d 623, (S.D. Tex. 2012) (upholding and striking affidavit based on whether facts alleged demonstrated personal knowledge).

Federal Rule 56 also prevents parties from merely replacing "conclusory allegations of the complaint or answer with conclusory allegations of an affidavit." *Kopin v. Wells Fargo Bank, N.A.*, 2013 U.S. Dist. LEXIS 1267, *2 (E.D. Tex. Jan. 4, 2013) (quoting *Lujan v. Nat'l Wildlife Fed'n.*, 497 U.S. 871, 888 (1990)). As Judge Schell has recently held:

> Unsubstantiated assertions, conclusory allegations, improbable inferences, and unsupported speculation are not competent summary judgment evidence. Indeed, unsupported . . . affidavits setting forth ultimate or conclusory facts and conclusions of law are insufficient to either support or defeat a motion for summary judgment.

Id. at *3.

B. <u>The Aurzada Declaration</u>.

The declarant in the Aurzada Declaration is the receiver of the defendants. Aurzada Decl. ¶ 3. He was appointed the receiver after the SEC initiated this action. Aurzada Decl. ¶ 4. The declaration provides no other basis for his alleged knowledge. In particular, it provides no

basis for any personal knowledge of anything that happened before his appointment as receiver. Therefore, when the declarant refers to events before the SEC initiated this action, he is not doing so based on personal knowledge.

The declaration describes the declarant's sources of knowledge as including "interviews with investors on dozens of occasions," and interviews of "employees of Defendants, Halo Companies, Inc….and LenderLive," as well as a review of numerous unidentified documents. Aurzada Decl. ¶4. The obvious problem is that these sources are hearsay and documents that are unauthenticated and unidentified and that therefore may be hearsay. The Federal Rules of Evidence do not permit a witness to assert facts of which the witness has no personal knowledge and do not permit a witness to serve as a conduit for hearsay and unidentified and unauthenticated documents. The Aurzada Declaration attempts to do these things repeatedly.

II.
SPECIFIC OBJECTIONS

Obj. No.	Aurzada Decl. Paragraph	Statement	Objection
1	FN 2	Each of the corporate Defendants was merely an alter ego of Temme and/or Stewardship Fund, LP.	Conclusory, lack of personal knowledge, not shown to be based on admissible evidence
2	6	Investors were told that these non-performing assets (residential real estate backed mortgages) could be purchased at a steep discount (usually between 5%-15% of the unpaid principal balance ("UPB")) and then "re-set" or "flipped" for a profit.	Hearsay, lack of personal knowledge.
3	7	The Defendants' ultimate goal, as expressed to investors, was to resell the assets at a higher price than they were purchased for and to distribute those profits, as well as the borrowers' monthly payments, to the partners in the limited partnership.	Hearsay, conclusory, lack of personal knowledge, not shown to be based on admissible evidence
4	8	In addition to re-resetting mortgages, the	Hearsay, lack of personal

		Defendants also solicited investors in "flips" in which non-performing assets were to be acquired at a discount and then supposedly resold within 30 to 90 days for a guaranteed profit margin (usually 20%).	knowledge, not shown to be based on admissible evidence
5	8	If the assets were sold for more than the guaranteed profit margin, the Defendants were entitled to the excess proceeds. Defendants' acts in connection with these transactions are described in more detail below.	Hearsay, lack of personal knowledge, not shown to be based on admissible evidence.
6	9	As explained more fully below, as I have conducted my investigation, it has become apparent that in offering and selling interests in notes and limited partnerships, the Defendants made material misrepresentations to investors regarding the value of the interests, the assets owned or to be purchased on behalf of investors, and the expected returns on such investments.	Conclusory, lack of personal knowledge, based on hearsay, not shown to be based on admissible evidence.
7	9	It has also become apparent that the Defendants failed to complete basic due diligence and complete the necessary paperwork to acquire and sell the interests and notes they purportedly sold to investors, even with regard to transactions that the Defendants appear to have legitimately attempted to complete. Specifically, among other things, Defendants failed to properly assign mortgages and agreements for deed, record executed assignments or other title documents, and execute note allonges.	Conclusory, lack of personal knowledge, not shown to be based on admissible evidence, improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given.
8	11	As a result of the Defendant's fraudulent conduct, misrepresentations, and material mismanagement, at the time I was appointed as Receiver I found the Defendants' records and documents to be in a state of disrepair. The Defendants were purportedly servicing thousands of mortgages without a coherent system for doing so. There was also no appreciable system to organize the collateral files or track the assets that were purchased by the various Defendants.	Conclusory, lack of personal knowledge, no showing of admissible basis regarding alleged "fraudulent conduct, misrepresentations, and material mismanagement." Regarding the remainder, lack of personal knowledge or demonstrable admissible basis for statements concerning the records, documents, and systems at the time Stewardship

			was operating, which was before the Receiver had access and after documents and computers had been seized.
9	12	Despite reports to investors that the Defendants were receiving $300,000 or more a month in mortgage payments, the Receiver only located approximately $17,000 in liquid assets owned by Defendants. Likewise, despite reports to investors that the Defendants owned approximately 6,800 assets….	Hearsay, lack of personal knowledge, lack of demonstrated evidentiary basis, as to "reports to investors"
10	13	More importantly, my investigation has also revealed that from a period of at least 2008 until the entry of the Receivership Orders, the Defendants' business and investment operations were based largely, if not entirely, on misrepresentations to investors regarding the nature of their investments, the collateral for their investments, the sources and uses of funds, and the general management and operations of the Defendants. In fact, as described in detail below, it has become evident that the Defendants frequently solicited funds from investors for the sole purpose of satisfying claims of other investors.	Conclusory, lack of personal knowledge, based on hearsay, not shown to be based on admissible evidence.
11	14	For example, one group of investors that was defrauded by the Defendants was the Canadian Peso Investor Group	Conclusory, lack of personal knowledge, based on hearsay, not shown to be based on admissible evidence.
12	15	From October 2008 to December 2010, Mr. Temme solicited the Canadian Peso Investor Group to invest in at least ten "tapes" or "pools" of non-performing mortgages. In each instance, Mr. Temme would approach the Canadian Peso Investor Group regarding the potential purchase of a tape of non-performing mortgages and provide a copy of the "tape"-a spreadsheet indicating the address of the assets and the unpaid principal balance ("UPB") of the mortgage and note, among other things. Upon wiring the purchase price to the destination designated by Mr. Temme, the assets ***were supposed to*** be transferred from the seller	Lack of personal knowledge, based on hearsay, not shown to be based on admissible evidence. Specifically, as to what was "supposed to" happen (see bold and italics), these are conclusory and without personal knowledge and either an inadmissible legal conclusion with no basis

		(often GMAC or Homecomings, tow reputable companies that investors would recognize) into a newly formed limited partnership in which one of the Defendants was the general partner (with power of attorney) and the Canadian Peso Investor Group were the limited partners. Within a few days to a few weeks of the acquisition, the assets ***were supposed to*** be assigned to the limited partnership and the Defendants ***were supposed to*** being "working" the assets-either re-setting them or reselling them. (emphasis added)	set forth, or based on hearsay or some other unstated basis that has not been shown to be admissible.
13	16	My review and analysis of the business records of the Defendants has revealed that during the course of their dealings with the Canadian Peso Investor Group, the Defendants made material misrepresentations regarding, among other things: (i) the identity and ownership of assets to be acquired; and (ii) the use of funds provided by the Canadian Peso Investor Group.	Conclusory, based on hearsay and other information not shown to be admissible, lack of personal knowledge
14	17	For example, in November 2008, Mr. Temme approached the Canadian Peso Investor Group regarding the potential purchase of 201 assets that the Defendants were purportedly acquiring from GMAC. The assets represented approximately one half of a tape of assets labeled Package 1st0082 by GMAC. The Canadian Peso Investor Group agreed to purchase the assets on behalf of the newly formed Stewardship Fund No.2, LP ("SF2"). On November 25, 2008, following Mr. Temme's instructions, the Canadian Peso Investor Group wired $1,627,361.41 to GMAC for the purchase of the 201 assets based on the representations by Mr. Temme that he would arrange for the transfer of those assets to SF2.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
15	18	On December 3, 2008, Mr. Temme approached the investors in SF2 regarding the potential purchase of a different pool of 187 assets from GMAC listed as Package 1st0083. This second set of assets was to be re-sold within two weeks to a third party (*i.e.*, "flipped"), at a 20% profit. On December 5, 2008, following Mr. Temme's instructions, the investors in SF2 wired the $1,480,879 purchase price directly to GMAC.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.

16	19	My investigation has uncovered documents revealing that, at Mr. Temme's direction, both the $1,627,361.41 and $1,480,879 payments were used to purchase the entire 400-plus assets in Package 1st0082 (rather than half of the 1st0082 and the entire 1st0083). In fact, the assets in Package 1st0083 were not sold until December 19, 2008.	Conclusory, based on hearsay and other information not shown to be admissible, lack of personal knowledge. Improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given for the alleged "investigation" or results thereof. To the extent it is designed to summarize voluminous evidence, the appropriate foundation has not been laid under Fed. R. Evid. 1006.
17	23	This example of deception and misrepresentation regarding the identity and ownership of assets purchase on behalf of SF2 was a pattern repeated by Mr. Temme on many occasions.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible as to the undefined "example" being either deceptive or misrepresentative. Lack of personal knowledge, speculation, and no foundation as to the alleged "pattern."
18	24	In February 2009, Mr. Temme approached the Canadian Peso Investor Group regarding the potential purchase of a pool of 171 assets from an unidentified seller for $1,282,157. The Canadian Peso Investor Group agreed to the purchase, and on February 17, 2009, wired the purchase price to American Equity, LLC, which was purportedly serving as the escrow agent. Mr. Temme represented that the assets were to be acquired in the name of the newly formed Stewardship Fund No.3, LP ("SF3").	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
19	25	Mr. Temme did not acquire the 171 assets promised to the investors in SF3. Instead, an	Conclusory, lack of personal knowledge,

		examination of documents reveals that the assets purportedly purchased on behalf of SF3 were in actuality part of Package 1st0083, which Defendants had purchased on their own behalf on December 19, 2008. Additionally, the $1,282,157 that was sent to American Equity was not wired to GMAC or Homecomings, but instead to the Comerica account of Destiny Fund I LP, a Temme affiliate.	based on hearsay and possibly other bases not shown to be admissible.
20	29	Mr. Temme committed similar acts in connection with the formation of Stewardship Fund No.4, LP ("SF4").	Vague, conclusory, lack of personal knowledge.
21	29	As with SF2 and SF3, Mr. Temme represented that he would acquire on behalf of SF4 a tape of 137 assets from Home Shield, LLC for approximately $500,000.	Lack of personal knowledge, hearsay, not shown to be based on admissible evidence. In particular, these objections apply to the alleged representation that the assets would be acquired "from Home Shield, LLC."
22	32	In addition to misrepresentations regarding the identity and ownership of assets purportedly purchased on behalf of the Canadian Peso Investor Group, it has become apparent through my investigation that the Defendants frequently misused funds provided by the Canadian Peso Investor Group or that were supposed to be provided to the Canadian Peso Investor Group under the terms of the limited partnership agreements.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given for the alleged "investigation" or results thereof.
23	33	For example, Mr. Temme informed the investors in SF2 that a package of assets owned by SF2 was sold for a purchase price of $1,777,055, and paid the limited partners their share of those proceeds.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
24	33	However, the purchase and sale agreements located in the Defendants' records indicate that the assets were actually sold for $2,506,754.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. To the

			extent it is designed to summarize voluminous evidence, the appropriate foundation has not been laid under Fed. R. Evid. 1006.
25	34	Attached hereto as **Exhibit 9** are true and correct copies of communications to the SF2 investors indicating the purchase price of $1,777,055.	Speculation and lack of personal knowledge as to what the documents indicate. The attached document does not identify the contents of the package sold for $1,777,055, and the declarant lacks personal knowledge or admissible evidence of the assets in the package. The declarant implies, with no foundation for doing so, that the package purchased in Exhibit 9 for $1,777,055 was identical to the package that was sold for $2,506,754 in Exhibit 10 (see objection 26, below).
26	35	Attached hereto as **Exhibit 10** are true and correct copies of the purchase and sale agreements indicating the actual purchase price of $2,506,754.	Speculation and lack of personal knowledge as to what the documents indicate, specifically that $2,506,754 was "the actual purchase price" of the package referenced in Exhibit 9 (see objection 25). The attached documents do not identify the assets in the packages sold for a total of $2,506,754, and the declarant lacks personal knowledge or admissible evidence of what those assets were. The declarant implies,

			with no foundation for doing so, that the assets in the package purchased in Exhibit 9 for $1,777,055, were identical to the assets in the packages sold for $2,506,754 in Exhibit 10.
27	36	The most egregious misuses of funds by Mr. Temme involve several phantom transactions in which the Canadian Peso Investor Group provided funds that were allegedly used to purchase assets for which I have found no evidence indicating a purchase on behalf of the Canadian Peso Investor Group.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given showing why the declarant's failure to find the supposed "evidence" is relevant or admissible.
28	37	For example, in December 2009, Mr. Temme solicited the investors in Stewardship Fund No.4, LP ("SF4") to acquire a package of 141 assets for $1,307,948.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
29	37	On January 14, 2010, based on Mr. Temme's representations that he would acquire assets on behalf of SF4, the SF4 investors wired the purchase price to American Equity, LLC.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
30	37	However, documents reveal that the 141 assets SF4 thought it was purchasing were actually transferred in October 2008 to MCS No.3, LP and Harbour Portfolio II, LP—other investors with the Defendants.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
31	37	SF4 has never received a return of any of the funds provided to American Equity for the purchase of those assets and has never received any of the assets.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
32	41	Similarly, in October 2010, Mr. Temme solicited the investors in Stewardship Fund No.5, LP	Lack of personal knowledge, based on

		("SF5") to acquire a package of 245 assets for $2,024,609. On October 8, 2010, based on Mr. Temme's representations that he would acquire assets on behalf of SF5, the SF5 investors wired the purchase price to Madison Settlement Service, LLC.	hearsay and possibly other bases not shown to be admissible. Lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
33	41	It, therefore, appears that Mr. Temme simply took the funds with no benefit to SF5.	Lack of personal knowledge, speculation.
34	44	Another egregious example of Defendants' misuse of funds relates to Stewardship Fund No.6, LP ("SF6").	Conclusory, lack of personal knowledge, speculation.
35	44	In December 2010, the investors in SF6 provided $2.794 million to purchase a pool of 31 assets that were supposed to be flipped for a $450,000 profit in 90 days.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
36	44	In other words, Harbour Portfolio V received the benefit of the payment from the SF6 investors-namely, the 31 assets.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.
37	47	Similarly, on December 22, 2010, the investors in SF6 wired $2,347,323 to Madison Settlement Services, purportedly to purchase a package of 41 0 assets from Home Shield based on Mr. Temme's representations that he would arrange for the purchase of the 410 assets to be conveyed to SF6.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
38	47	Rather, the documents indicate that on December 27, 2010, the funds provided from SF6 investors to Madison Settlement Services were used to fund a settlement of a lawsuit between the MCS entities and the Defendants, described more fully below.	Lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. The term "documents" is vague and undefined. Such "documents" have not been shown to be admissible. Further, the contents of such documents, if admissible, are potentially relevant but the given summary is

			not.
39	49	Additionally, as described below, Mr. Temme solicited and obtained through misrepresentations funds from investors in promissory notes and other investment vehicles to fund the settlement payment to MCS in December 2010.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
40	50	In addition to interests in limited partnership, the Defendants frequently solicited funds from investors through the use of promissory note "flips." In these transactions, one of the Defendants, acting through Mr. Temme, would execute a Secured Promissory Note in which the investor would provide the Defendant with funds that were purportedly used to acquire and resell a particular package of assets in a short period of time (usually 30-90 days). In return, the investor was given a guaranteed rate of return (often 20%) and a security interest in the notes that were acquired by the Defendant. If the Defendant re-sold the assets for more than the guaranteed return, the Defendant was entitled to the excess funds.	Conclusory, lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
41	52	In the vast majority of cases, the Defendants simply took the funds from the promissory note holder and did not take any efforts to acquire assets and did not repay the promissory notes as· promised, particularly for the time period of 2008 to 2011.	Conclusory, lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted.
42	53	Attached hereto as **Exhibit 18.** is a true and correct copy of three representative examples of Secured Promissory Notes entered into by the Defendants. As with other promissory notes, I have not found any evidence that Mr. Temme owned or had the authority to pledge as collateral any of the assets purportedly serving as collateral for the promissory notes.	Speculation and lack of personal knowledge as to what the documents indicate, or what Mr. Temme owned or had authority to do. No basis given for knowledge sufficient to authenticate the document.
43	56	Based on records obtained as part of the receivership, including documents from investors, I have discovered that from October to December	Lack of personal knowledge, based on hearsay and possibly

		2010, Mr. Temme solicited at least $3,018,000.00 from various investors that have filed proofs of claim with the receivership.6 F. Finch and Barry Group	other bases not shown to be admissible. To the extent it is designed to summarize voluminous evidence, the appropriate foundation has not been laid under Fed. R. Evid. 1006. Improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given showing the veracity of the declarant's "discovery."
44	58	I have reviewed the declaration of Leroy Finch filed in support of the Commission's Application for an Ex Parte Temporary Restraining Order [Dkt. No.2], which details the misrepresentations by Temme and the Defendants to the Finch and Barry Group. I have reviewed the Defendants' records and have not found anything contrary to the assertions therein. Additionally, the description by Mr. Finch of the Defendants' business practices is consistent with the other records that I have obtained in the receivership. Furthermore, I have reviewed the asset lists that were provided to the Finch and Barry group by Mr. Temme and found no evidence that the Defendants or any entity that they controlled owned those assets or conveyed or attempted to convey them to the Finch and Barry Group.	Allegations regarding alleged "misrepresentations" detailed in the Finch Declaration are conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Further there is no basis to support the assertion that the declarant's interpretation of another declaration is relevant or admissible for any purpose. Allegations regarding undefined "Defendants' records" are conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. The alleged comparison of the unnamed "Defendant's records" with the Finch Declaration is an improper attempt to bolster or offer

			comparative evidence. Statements concerning the alleged "asset lists" are conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. The alleged "lists" are not provided nor cited. Further there is no basis under Rules 702 or 703 to support any testimony regarding the declarant's alleged lack of findings in those documents.
45	59	Likewise, I have reviewed the declaration of Tim Weber filed in support of the Commission's Application for an Ex Parte Temporary Restraining Order [Dkt. No.2] which details misrepresentations made by Mr. Temme related to the formation of Stewardship Philanthropy Fund No.4, LP ("SPF4"). As with the Finch and Barry Group, the testimony of Mr. Weber is consistent with the receivership records I have examined.	Statements regarding the Weber Declaration are conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible. Further there is no basis to support the assertion that the declarant's interpretation of another declaration is relevant or admissible for any purpose. The alleged comparison and "consistency" is an improper attempt to bolster or offer comparative evidence.
46	63	In conclusion, my investigation reveals that Mr. Temme and Defendants made material misrepresentations to investors regarding their investments in limited partnership and promissory notes. Often, the funds solicited from investors were used to make payments to other investor groups or make distributions to the Defendants or pay expenses of Defendants.	Conclusory, lack of personal knowledge, speculation, and hearsay as to what others thought or why they acted. Improper opinion testimony under Rules 702 and 703 because no expertise has been shown and no basis or analysis has been given showing

			the veracity of the declarant's conclusions.

III.

CONCLUSION

Mr. Temme respectfully requests that the Court sustain his objections and grant this motion to strike.

Respectfully submitted:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document has been served on counsel of record via the Court's CM/ECF system.

/s/ John Helms, Jr.
John Helms, Jr.

CERTIFICATE OF CONFERENCE

Counsel has complied with the meet and confer requirement in Local Rule CV-7(h) and the motion is opposed. The personal conference required by the rules has been conducted on July 18, 2013 via telephone. The participants were John Helms and David Reece. No agreement could be reached because the SEC disagrees with the objections presented herein. Discussions have conclusively ended in an impasse leaving an issue for the Court to resolve.

/s/ John Helms, Jr.
John Helms, Jr.