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

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	
v.	:	Civil Action No. **4:11-CV-0655**
JAMES G. TEMME, and STEWARDSHIP FUND, LP,	:	(Judge Clark/Mazzant) ECF
Defendants,	:	

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

The Securities and Exchange Commission (the "Commission"), respectfully submits the following Response to the Objections to the Declaration of Keith Miles Aurzada and Motion to Strike (the "Motion"), as follows:

DISCUSSION

Defendant Temme objects 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") on the general ground that it is allegedly not based on personal knowledge. Defendant's objection is without merit and should be overruled.

First, the Aurzada Declaration is based on personal knowledge. Indeed, most of the statements in the Aurzada Declaration are based on, and supported by, Receivership documents attached to the declaration. As the Court-appointed receiver, Mr. Aurzada is the custodian of all records of the Defendants and, therefore, is permitted to produce, authenticate, and testify regarding documents from the Defendants.

Second, a federally appointed receiver is entitled to testify regarding the results of his investigation, including, specifically, the conclusion that the companies over which he is receiver operated as a Ponzi scheme. The Fifth Circuit addressed almost the same type of objections in *Warfield v. Byron*, 436 F.3d 551, 559 (5th Cir. 2006). And the Court's analysis is worth repeating here:

> "Littlewood asserts that the Receiver's evidence was not based on personal knowledge, was both hearsay and incompetent, and therefore was inadmissible for summary judgment purposes under Federal Rule of Civil Procedure 56. Littlewood's assertions are without merit. First, the Receiver qualified as RDI's record custodian. Second, he spent thousands of hours investigating RDI's banking transactions and establishing that RDI was a Ponzi scheme. The Receiver testified that he subpoenaed bank records from more than one hundred seventy-five financial institutions and reviewed over thirty-two thousand banking transactions to unravel the Ponzi scheme. Third, the Receiver's sworn declaration firmly established that specific amounts of Ponzi scheme assets were transferred to Littlewood and consisted of other investors' money rather than legitimate earnings.")

Similarly, in *F.D.I.C. v. Stringer*, 46 F.3d 66, *2 (5th Cir. 1995), the Court rejected these same type of arguments seeking to undercut the ability of a Court to consider statements from a person charged, in connection with an entity placed in receivership, with understanding the entity's nature and conduct before the receivership. There, the Court explained:

> "The bedrock of Stringer's argument is that Kinser's affidavit was not made on personal knowledge. It was not made on personal knowledge, Stringer contends, because Kinser, an FDIC credit specialist, did not work for the failed bank and thus she was not present during, and did not have personal knowledge of, the making of the notes and/or several of the other documents proffered with her affidavit. Kinser's knowledge arose only after the bank was placed into receivership. Accordingly, Stringer argues that Kinser's testimony cannot properly authenticate these documents under Fed.R.Evid. 901 or qualify them under the business records exception to the hearsay rule. Fed.R.Evid. 803(6) …

> Stringer's argument clearly fails … To decide otherwise would be to hold the receiver to such a strict standard that summary judgment would be all but impossible for plaintiffs in cases such as these."); *Dykhouse v. Hoffman*, 9 F.3d 107, (6th Cir, 1993) ("Hoffman argues that the deputy receiver's affidavit was not based on personal knowledge. We find that Reese's affidavit complies with Federal Rule of Civil Procedure 56(e), in that it is based upon her personal familiarity with the case and her review of the files.".

The Fifth Circuit's analysis fits perfectly here. The Receiver, in his declaration, describes in detail the extensive time and effort the Receiver has spent reviewing Receivership documents, familiarizing himself with the operations of the Defendants, and tracking the flow of funds to and from investors. The statements provided in the Aurzada Declaration are conclusions drawn from the Receiver's personal familiarity of the case, the Defendants, and the Defendants' records.

This is also consistent with the admissibility standard set out in FED. R. EVID. 803(8) (evidence is not excluded as hearsay if it is a "record or statement of a public office [that] sets out … a matter observed while under a legal duty to report … and neither the source of information nor other circumstances indicate a lack of trustworthiness"). Because the Receiver has responsibilities to engage in his activities and to report his findings. At a minimum, his testimony should be considered under the residual hearsay exception found in FED. R. EVID. 807 (residual hearsay exception); *see In re: Stanford International Bank, Ltd.*, No. 3:09-cv-0721-N, slip op. at 11-12 (N.D. Tex. July 30, 2012) (overruling evidentiary objections to evidence submitted by court-appointed Receiver on several grounds, including the residual hearsay exception under FED. R. EVID. 807).

In addition to the Defendants' general objection that the Aurzada Declaration is not based on personal knowledge, they Defendants also offer copious objections to specific provisions of

the Aurzada Declaration. Although these objections are mainly boilerplate and flow in large part from the general objection noted above, the Commission's offers a brief response to each:

II.
SPECIFIC OBJECTIONS

Obj No.	Aurzada Decl. Para.	Statement	Objection	Response
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	The Receiver is competent to testify regarding the business practices of the Defendants based on his investigation and review of the Defendants' business records.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed
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	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed

4		In addition to re-resetting mortgages, the 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%).	Hearsay, lack of personal knowledge, not shown to be based on admissible evidence	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed
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.	fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed

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.	The Receiver's knowledge is based on a review of collateral files for assets that were purportedly sold by the Defendants. The Receivership Orders [Dkt. Nos. 24, 25, 30] establish that the Receiver is an attorney, competent to offer opinions regarding whether assignments and allonges were properly completed.
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.	As to the statements regarding fraud and misrepresentations, the predicate is laid by the Receiver's other statements in paragraphs 14-65. As to the statements regarding the Defendants' records, the Receiver provides that "at the time [he] was appointed." The receiver is competent and possesses knowledge to testify regarding the Defendants' state of affairs at the time he was appointed.

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"	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed
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.	The statement is supported by the following paragraphs that detail the Defendants' specific misrepresentations [paragraphs 14-65]. Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed

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.	The statements is supported by the evidence presented in paragraphs 15-49.
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 (often GMAC or Homecomings, tow reputable companies that investors would recognize) into a newly formed limited partnership in which one of the Defendants	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 set forth, or based on hearsay or some other unstated basis that has not been shown to be admissible	The statements in paragraph 15 are a summary of the specific incidents detailed in paragraphs 16-49. Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, most of the statements in paragraphs 15-49 are based on email communications between the Defendants' and the Canadian Peso Investor Group, which are incorporated by reference and attached to the Aurzada Declaration.

		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).	.	
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	The statements in paragraph 16 are a summary of the specific incidents detailed in paragraphs 17-49.

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 1 st0082 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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit 1 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 17.

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 1 st0083. 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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit 1 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 18.
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 1 st0082 (rather than half of the 1 st0082 and the entire 1st0083). In fact, the assets in Package 1 st0083 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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit 1 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 19.

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."	The pattern of the Defendants' conduct is established by the evidence presented in paragraphs 17-49.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits 2-4 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 24.

19	25	Mr. Temme did not acquire the 171 assets promised to the investors in SF3. Instead, an 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.	Conclusory, lack of personal knowledge, based on hearsay and possibly other bases not shown to be admissible.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits 2-4 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 25.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits 2-4 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 29.

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."	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits 2-4 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 29.
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.	The statements in paragraph 32 are a summary of the specific conduct demonstrated in paragraphs 33-49. The Receiver's investigation is detailed in paragraphs 1-9.

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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit-9 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 32.
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.	The Receiver is the custodian for the Defendants' records and may provide testimony regarding their contents. Additionally, the relevant documents were attached to the Aruzada Declaration as Exhibit 10.

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).	The communications between the Defendants and the SF2 Investors speak for themselves and reveal that the package purportedly sold for $1,777,055 was the same as the package actually sold for $2,506,754 referenced in Exhibit 10.
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,	The communications between the Defendants and the SF2 Investors speak for themselves and reveal that the package purportedly sold for $1,777,055 was the same as the package actually sold for $2,506,754 referenced in Exhibit 10.

			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.	The Receiver presents no opinion testimony. The Receiver cannot be held to the standard of proving a negative. The Receiver testified that he has found no evidence of certain transactions.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit-11 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 37.

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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits-11-12 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 37.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits-11-12 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 37.
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.	Statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a);

32	41	Similarly, in October 2010, Mr. Temme solicited the investors in Stewardship Fund No.5, LP ("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.	Lack of personal knowledge, based o 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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits-13-14 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 41.
33	41	It, therefore, appears that Mr. Temme simply took the funds with no benefit to SF5.	Lack of personal knowledge, speculation.	This is a conclusion based on the statements provided in the remainder of paragraph 41.
34	44	Another egregious example of Defendants' misuse of funds relates to Stewardship Fund No.6, LP ("SF6").	Conclusory, lack of personal knowledge, speculation.	This is a summary of the other evidence presented in the remainder of paragraph 44.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibits-15-16 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 44.

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.	This statement is supported by the evidence presented in the remainder of paragraph 44 as well as Exhibits 14-15.
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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed. Indeed, the documents attached as Exhibit 17 to the Aurzada Declaration provide the support for the Receiver's statements in paragraph 47.
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.	The Receiver merely summarizes the documents that are included in the declaration as paragraph 17. The Receiver is the custodian of records for the Defendants and is therefore the proper party to offer such documents.

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.	This is a summary of the evidence presented in paragraphs 55-56.
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 resold 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.	Statements from Temme to Investors were admissions by a party opponent/statements against interest; statements from Investors to Receiver fit within residual exception to hearsay Rule 807(a); the Receiver's knowledge of these statements also comes directly from emails and other communications between the Defendants and the investors that the Receiver has reviewed

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.	The Receiver's testimony is a summary of his review of documents, exemplars of which are included as Exhibit 18.
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.	As the Receiver states, he has found no evidence of Mr. Temme's authority, he is not attesting to Mr. Temme's authority. The predicate for the Receiver's statement was laid in paragraphs 1-9 in which he detailed his investigation of the Defendants.

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.	The Receiver is competent to testify regarding the business practices of the Defendants based on his investigation and review of the Defendants' business records.
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 Receiver is competent to testify regarding the business practices of the Defendants based on his investigation and review of the Defendants' business records.

Respectfully submitted,

/s/ David B. Reece
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CERTIFICATE OF SERVICE

I certify that on August 22, 2013, I electronically filed the foregoing ***Plaintiff's Objections and Motion to Strike*** with the Clerk of the Court for the Eastern District of Texas, Sherman Division, using the CM/ECF system. The electronic case filing system will send a "Notice of Electronic Filing" to all counsel of record who has consented in writing to accept service of this document by electronic means.

/s/ David B. Reece
David B. Reece