

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION, )  
 )  
 Plaintiff, )  
 v. )  
 )  
 BURTON DOUGLAS MORRISS, )  
 ACARTHA GROUP, LLC, )  
 MIC VII, LLC, )  
 ACARTHA TECHNOLOGY PARTNERS, LP, and )  
 GRYPHON INVESTMENTS III, LLC, )  
 )  
 Defendants, and )  
 )  
 MORRISS HOLDINGS, LLC, )  
 )  
 Relief Defendant. )

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Case No. 4:12-CV-00080-CEJ

**RECEIVER’S SECOND SUPPLEMENTAL MEMORANDUM  
REGARDING OBJECTION OF HANY TEYLOUNI  
TO RECEIVER’S NOTICE OF DETERMINATION**

Receiver Claire M. Schenk, in her capacity as receiver (“Receiver”) for Acartha Group, LLC (“Acartha”), Acartha Technology Partners, L.P. (“ATP”), MIC VII, LLC, and Gryphon Investments III, LLC (collectively, the “Receivership Entities”) respectfully files this Second Supplemental Memorandum in response to the Court’s order entered February 8, 2016 (ECF No. 438). This memorandum provides: 1) additional details on the lack of information provided by claimant Hany Teylouni to the Receiver during the claims process; 2) the Information<sup>1</sup> referred to in the Receiver’s first Supplemental Memorandum; and 3) details on the apparently

<sup>1</sup> The Receiver did not provide the name of the Federal agency that provided the additional information or the details of the communications with Mr. Teylouni’s counsel in an effort to disclose to the court, public, and investors the need for the requested information without violating Mr. Teylouni’s or [REDACTED] privacy. Because the referenced additional information included details of [REDACTED] the Receiver believed that she could provide the Court with sufficient information without violating their privacy. Per the Court’s request, the Receiver now provides the additional information with the request to file such information under seal.

inconsistent and contradictory statements made by Mr. Teylouni during the claims process and this pending objection, which Mr. Teylouni has failed to clarify despite reasonable requests and extensions to respond from the Receiver.

1) Mr. Teylouni's Failure to Provide Information

Mr. Teylouni, a former employee of Acartha and/or ATP, filed a claim with the Receiver for deferred compensation and interest in the amount of \$352,532.15 ("Claim No. 20"). In addition to her review of Mr. Teylouni's claim and the documentation submitted by him in support of his claim,<sup>2</sup> the Receiver also considered Receivership documents relevant to Mr. Teylouni's claim. In particular, the Receiver reviewed email correspondence between Mr. Teylouni and Burton Douglas Morriss concerning [REDACTED] [REDACTED] in 2010 during his employment with Acartha and/or ATP. (Exhibit A). [REDACTED]

[REDACTED], but Mr. Teylouni did not include information on [REDACTED] with his claim. Therefore, [REDACTED] [REDACTED] [REDACTED]

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<sup>2</sup> As approved by the Court, the Receiver's Notice of Claims Bar Date and Proof of Claim Form directed claimants to provide:

- (i) copies of personal checks, cashier's checks, wire transfer advices, account statements and other documents evidencing the investment or payment of funds;
- (ii) copies of signed investment contracts or other written contracts or agreements made in connection with any investment in or with any Receivership Entity;
- (iii) a chronological accounting of all money received by the claimant from any Receivership Entity or the Receiver, whether such payments had been denominated as the return of principal, interest, commissions, finder's fees, sponsor payment or otherwise;
- (iv) copies of all documentation and records reflecting or regarding any withdrawals ever made by or payments received by the claimant from any Receivership Entity or the Receiver;
- (v) copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements or other evidence of perfection of liens; and
- (vi) other documents evidencing the amount and basis of the claim.

(ECF No. 234, approving ECF No. 215-2; ECF No. 215-3).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].” (Exhibit B).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]”

(*Id.*)

On February 12, 2014, the Receiver recommended disallowance of Mr. Teylouni’s claim. The Receiver outlined eight different grounds for the recommendation, including lack of information.<sup>3</sup> Mr. Teylouni objected to the Receiver’s decision, which resulted in the filings before this Court. (ECF No. 337; ECF No. 344; ECF No. 381).

2) Information from a Federal Agency

In her Supplemental Memorandum Regarding Objection of Hany Teylouni to Receiver’s Notice of Determination (ECF No. 381), the Receiver stated:

On or about September 29, 2014, after filing her Response to Mr. Teylouni’s objection to her claim determination, the Receiver received unsolicited information (the “Information”) from a Federal agency.

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<sup>3</sup> Other grounds included waiver of the compensation, any right to the compensation was conditional, the salary was fully paid, it would be inequitable to award conditional payments, deferred compensation is invalid under the relevant corporate documents, the Receivership Entities did not treat the funds as deferred compensation, and it would be inequitable to allow a claim for deferred compensation.

ECF No. 381 at 1. The Information was [REDACTED]

[REDACTED]. (Exhibit C). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Exhibit C at \*7-9) Thus, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The information also was inconsistent with [REDACTED]

[REDACTED]

[REDACTED].

3) Mr. Teylouni's Failure to Explain the Inconsistency Between His Statement

[REDACTED]

The Receiver's counsel [REDACTED] (Exhibit D).

[REDACTED]

[REDACTED] The Receiver also requested

information from Mr. Teylouni to explain the apparent inconsistency between Mr. Teylouni's

statement regarding [REDACTED]. (Exhibit E). The

Receiver requested a response by March 3, 2015. (*Id.*)

On March 3, 2015, Mr. Teylouni's counsel informed Receiver's counsel that he had provided the Receiver's letter and [REDACTED] to Mr. Teylouni, but that he had not yet heard

from him. (Exhibit F). On March 16, 2015, Receiver's counsel called Mr. Teylouni's counsel to

discuss the Receiver's request. Mr. Teylouni's counsel returned the call on March 17, 2015, and

he stated that he had not yet heard from Mr. Teylouni. Receiver's counsel offered to grant Mr. Teylouni an extension of time to provide the information, but noted that the Receiver needed the information about [REDACTED]

[REDACTED] to determine whether the Receiver should notify the Court about the apparent discrepancy. On March 19, 2015, the Receiver's counsel called Mr. Teylouni's counsel and informed him the Receiver would be filing a request that the Court hold his objection in abeyance pending the receipt of the additional information. The Receiver then filed a Supplemental Memorandum Regarding and Request for Abeyance of Objection of Hany Teylouni's to Receiver's Notice of Determination. (ECF No. 378). Receiver's counsel then restated her concerns via letter to Mr. Teylouni's counsel and asked that Mr. Teylouni provide clarification by March 30, 2015. (Exhibit G). On March 30, 2015, Mr. Teylouni's counsel sent the Receiver's counsel an email stating that he had reached out to Mr. Teylouni twice since March 19, but Mr. Teylouni had not responded. (Exhibit H). Therefore, on April 8, 2015, the Receiver filed her Motion for Permission to File Supplemental Memorandum Regarding Objection of Hany Teylouni to Receiver's Notice of Determination and a Memorandum in Support of the Motion. (ECF No. 379.) The Receiver filed the Supplemental Memorandum Regarding Objection of Hany Teylouni to Receiver's Notice of Determination as an exhibit to her motion.

The Information, its inconsistency with statements from Mr. Teylouni regarding [REDACTED]

[REDACTED]  
[REDACTED] lead the Receiver to conclude that Mr. Teylouni did not provide



**CERTIFICATE OF SERVICE**

I hereby certify that on February 22, 2016, I electronically filed the foregoing with the Clerk of the Court through the Court's CM/ECF system which will send a notice of electronic filing to all parties receiving CM/ECF service, including but not limited to the following:

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/s/ Kathleen E. Kraft