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U.S. DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,** )  
)  
)  
**PLAINTIFF,** )  
)  
)  
**v.** )  
)  
**PATRICK O. HOWARD;** )  
**HOWARD CAPITAL HOLDINGS, LLC;** )  
**AND OPTIMAL ECONOMICS CAPITAL** )  
**PARTNERS, LLC,** )  
)  
**DEFENDANTS.** )

**Civil Action No.:**  
**8-17CV-420-L**  
**FILED UNDER SEAL**

**MOTION FOR PRELIMINARY INJUNCTION, *EX PARTE* TEMPORARY  
RESTRAINING ORDER, ASSET FREEZE, APPOINTMENT OF A RECEIVER, AND  
OTHER EMERGENCY AND ANCILLARY RELIEF**

**I. Introduction**

Plaintiff Securities and Exchange Commission (“SEC” or “Commission”) files this motion in an effort to halt an ongoing fraudulent securities offering that has claimed at least 100 victims since March 2015, defrauding them of at least \$13.1 million, combined. The factual and legal basis for this motion is set forth in the accompanying Brief in Support of Motion and evidentiary Appendix. It is further supported by a Certification under Fed. R. Civ. P. 65(b). The Defendants are Patrick O. Howard, Howard Capital Holdings, LLC, and Optimal Economics Capital Partners, LLC (collectively, “Defendants”). The specific relief sought is set out below.

**II. Preliminary Injunction and *Ex Parte* Temporary Restraining Order**

The SEC moves the Court for an Order of Preliminary Injunction and, *ex parte*, a Temporary Restraining Order to restrain and enjoin, immediately and pending final adjudication

on the merits each Defendant, from violating securities-registration and anti-fraud provisions of the federal securities laws, specifically Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78j(b) and 78o(a)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

### **III. *Ex Parte* Asset-Freeze Order**

For the purpose of effecting an asset freeze, the Commission further moves the Court *ex parte* for an order restraining and enjoining the Defendants, their officers, agents, servants, employees, attorneys, and all persons and entities in active concert or participation with them—including Insured Liquidity Partners CFG I, LLC (“CFG I”), Insured Liquidity Partners CFG II, LLC (“CFG II”), and OE Capital Ventures, LLC (“OE Fund”) (collectively, the “Funds”)—who receive actual notice of the order by personal service or otherwise from, directly or indirectly, making any payment or expenditure of funds, incurring any additional liability (including taking advances on any credit line or account), or effecting any sale, gift, hypothecation, or other disposition of any asset, without first proving to the Court that they possess and will retain sufficient funds or assets to satisfy all claims alleged in the Commission’s Complaint or without first posting a bond or surety with the Court sufficient to assure payment of those claims or until further order of this Court.

To give effect to the requested asset freeze, the Commission moves the Court *ex parte* for an order (a) restraining and enjoining any bank, savings and loan association, trust company, broker-dealer, or other financial or depository institution that holds an account in the name of, on behalf of, or under the control of, the Defendants—including accounts in the name of each of the Funds—from engaging in any transaction in securities (except liquidating transactions) or

any disbursements of funds or securities on behalf of the Defendants unless otherwise ordered by this Court and (b) directing such persons or entities to identify for Commission counsel and any Receiver appointed in this case all such accounts, including account number, and the nature and amount of all assets held in them.

**IV. *Ex Parte* Receiver-Appointment Order**

To ensure the eventual return of the assets at issue in this case to their rightful claimants, the Commission moves the Court *ex parte* to appoint a Receiver for the Defendants, granting the Receiver the powers necessary to marshal, possess, conserve, hold, manage, and, operate all assets—including assets held in the name of the Funds—in the possession, custody, ownership, or control of each Defendant, pending further order of the Court.

**V. *Ex Parte* Document-Preservation Order**

The Commission further moves the Court *ex parte* for an order restraining and enjoining Defendants, individually and jointly, and their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, including any bank, securities broker-dealer, or any financial or depository institution, who receive actual notice of this order by personal service or otherwise, from destroying, removing, mutilating, altering, concealing, or disposing of, in any manner, any books, records, or accounts owned by or pertaining to the financial transactions and assets of the Defendants or any persons or entities under their control—including the Funds—unless otherwise ordered by this Court.

**VI. *Ex Parte* Interim-Accounting Order**

The Commission further moves the Court *ex parte* for an order requiring each Defendant to provide an interim accounting, under oath, detailing (a) all monies and other benefits that that the Defendant received, directly and indirectly, including on behalf of the Funds, as a result of

the activities alleged in the Complaint, (b) all assets in the possession, custody, or control the Defendant, including assets of the Funds, wherever they may be located and by whomever they may be held, and (c) all accounts that the Defendant owned, controlled, or possessed, including accounts of the Funds, during the period from January 1, 2015, through the date of the accounting.

**VII. *Ex Parte* Expedited Discovery Order**

The Commission further moves the Court for issuance of an order authorizing expedited discovery consistent with the following guidelines: (1) Any party may notice and conduct depositions upon oral examination and may request production of documents or other things for inspection and or copying from parties prior to the expiration of 30 days after service of the Complaint on the Defendants; (2) All parties shall comply with the provisions of Rule 45 of the Federal Rules of Civil Procedure regarding issuance and service of subpoenas unless the person designated to provide testimony or to produce documents or things agrees to provide the testimony or to produce the documents or things without the issuance of a subpoena and/or to do so at a place other than one at which testimony or production can be compelled; (3) Any party may notice and conduct depositions upon oral examination subject to minimum notice of 72 hours; (4) All parties shall produce for inspection and copying all documents and things that are requested within 72 hours of service of a written request for those documents and things. (5) All parties shall serve written responses to any other party's request for discovery, and the interim accounting to be provided by each Defendant, by delivery to Plaintiff Commission addressed as follows: United States Securities and Exchange Commission, Fort Worth Regional Office, Attention: Timothy S. McCole, Burnett Plaza, Suite 1900, 801 Cherry Street, Unit #18, Fort Worth, TX 76102-6882, Email: [McColeT@SEC.gov](mailto:McColeT@SEC.gov), Facsimile: (817) 978-4927; and by delivery to other parties at such

address(es) as may be designated by them in writing. Such delivery shall be made by the most expeditious means available, including by facsimile machine and email.

**VIII. *Ex Parte* Order for Alternative Service of Pleadings and Other Papers**

The Commission further moves the Court *ex parte* for an order authorizing service of all pleadings and other papers, including the Summons, the Complaint, and court orders to be made personally, by facsimile, by overnight courier, or by mail upon the Defendants their agents, or their attorneys by representatives of the Plaintiff Commission, or by an alternative provision for service permitted by Rule 4 of the Federal Rules of Civil Procedure, or as this Court may direct by further order.


The Commission further moves the Court *ex parte* for an order authorizing service of the orders herein described on any bank, savings and loan association, trust company, broker, dealer, or other financial or depository institution, either by United States mail, email, or facsimile, as if such service were personal service on that bank, savings and loan association, trust company, broker-dealer, or other financial or depository institution.

**VII. Conclusion**

Based on the facts and legal analysis set forth in the accompanying Brief in Support of Motion, the SEC respectfully requests that the Court enter orders providing the relief requested.

Dated: February 14, 2017

Respectfully submitted,

  
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