Exhibit B

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

March 25, 2021

Ms. Helgi C. Walker Esq.
Gibson, Dunn & Crutcher, LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **20-02109-FOIA**

Dear Ms. Walker:

Final reference is made to your request, dated September 22, 2020, and received in this office on September 23, 2020 for records from 2017 to the present relating to the impact on convertible debt lenders, microcap issuers, or the microcap industry of requiring convertible debt lenders to register as dealers under Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78o(a)) and/or the impact on convertible debt lenders, microcap issuers, or the microcap industry of treating or defining convertible debt lenders as dealers under Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. §78c(a)(5)).

The search for responsive records has resulted in the retrieval of 56 pages. Enclosed are 18 pages of records that may be responsive to your request. They are being provided to you with this letter, with the exception of third-party and staff email addresses, which is exempt from disclosure under 5 U.S.C. § 552(b)(6), since its release would constitute a clearly unwarranted invasion of personal privacy.

Additionally, we are withholding 38 pages of records that may be responsive to your request under 5 U.S.C. § 552(b)(5). Since certain responsive information forms an integral part of the pre-decisional process, it is protected from release by deliberative process privilege embodied in Exemption 5.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal

must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address.

If you have any questions, please contact Tina Churchman of my staff at churchmant@sec.gov or (202) 551-8330. You may also contact me at foiapa@sec.gov or (202) 551-7900. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you please see the attached addendum.

Sincerely,

Lizzette Katilius
FOIA Branch Chief

Enclosures

ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting https://www.sec.gov/oso/help/foia-contact.html.

SEC FOIA Public Liaisons are supervisory staff within the Office of FOIA Services. They can assist FOIA requesters with general questions or concerns about the SEC's FOIA process or about the processing of their specific request.

In addition, you may also contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. OGIS can be reached at 1-877-684-6448 or via e-mail at ogis@nara.gov. Information concerning services offered by OGIS can be found at their website at Archives.gov. Note that contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

The
BASILE LAW FIRM P.C.

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390 North Broadway - Ste 140 | Jericho, New York 11753
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TELEPHONE: [redacted] | FACSIMILE: [redacted]

November 12, 2020

Ms. Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: File Number S7-13-20
Notice of Proposed Exemptive Order Granting Conditional Exemption from the Broker Registration Requirements of Section 15(a) of the Securities Exchange Act of 1934 for Certain Activities of Finders

Dear Ms. Countryman:

The Basile Law Firm P.C. is a boutique law firm in Jericho, New York representing over 30 small public companies in federal and state court litigation against toxic convertible note holders and would like to take this opportunity to comment on the Commission's proposed exemptive order concerning the activities of finders in securities transactions. We believe this exemption, addressed as it is to the needs of non-registrants, mostly issuers trading on the OTC Markets, will be helpful to small businesses that wish to raise capital legitimately to grow their operations but lack access to appropriate sources of funding.

When small publicly traded companies do not have access capital, they often resort to taking financings from predatory toxic convertible note lenders that feature interest as high as 240%, and conversion discounts as high as 80% of the market price offered as capital markets financings. Our research indicates that more than 2,300 OTC issuers have fallen victim to these toxic instruments which leave behind a trail of financially ruined companies and losses to investors. We are hopeful that the new exemption will potentially open doors to legitimate financing for at least some of these companies.

Most executive managers of OTC Markets companies are unsophisticated and do not have the experience, nor resources, to understand the short and long-term ramifications of taking a toxic financing. Toxic lenders often misrepresent the terms of their financing agreements and these agreements are

typically boilerplate and not negotiated in arms-length transactions (because of, among other things, the lack of sophistication and experience by the OTC issuers themselves). These lenders may also collude with certain transfer agents that charge fee's as high as $2,000 per conversions and law firms who morphed into toxic funders themselves and legal opinion writers. OTC Markets issuers are sitting ducks for predatory, unregulated lenders and unscrupulous finders. These toxic notes, also known as "death spiral," convertible promissory notes, tie in steep conversion discounts to an issuers trading price for conversion and the issuers stock declines precipitously, often reaching $0.0001 per share. When this happens, OTC Markets issuers have little choice but to take corporate actions (reverse split the stock) and seek additional similar financings with the same result. However, in some instances, FINRA will not approve a corporate action if the issuer has a "bad actor" trading, or potentially trading in its stock. Some of these toxic lenders are bad actors as proclaimed by FINRA, so any necessary corporate action to correct stock anomalies due to death spiral conversions is probably futile and most likely will not be approved by FINRA. Usually, an OTC issuer will issue several convertible notes to several toxic lenders within a short period of time meaning, 6 months later, these toxic lenders are competing against each other to sell stock they received at a steep discount to the trading price. At this point, many OTC Issuers are usually forced to issue new notes to pay off old ones and end up paying an adjusted APR in excess of 1000% for their capital. The fees, penalties, and discounts required under these agreements serve as a form of interest for them.

The SEC's past failure to pursue toxic lenders is one of the agency's greatest enforcement failures. Only in the last two years has the Commission brought a handful of actions against known egregious toxic convertible note lender's charging them with acting as unregistered dealers under the Securities Act. These actions will go a long way to stop the lenders who make a business of preying on desperate OTC Markets companies but many more are needed to address the current environment.

The new proposed exemption may provide needed relief for issuers by allowing individuals acting legitimately, and not in the service of a toxic funders, to help raise money. For most OTC Markets issuers, it will be helpful to engage a finder to make introductions to potential investors without having to hire a registered broker-dealer. Since many of these companies are non-registrants, they may have had no previous experience or associations with dealers and may not be in a position to bear the cost of hiring a broker.

The distinction the proposal makes between Tier I and Tier II finders is a good one. Because a Tier I finder will only make introductions between the company and prospective investors, and because the investors must be accredited, there seems no point in her being a registered broker. The requirements for Tier II finders are more extensive and include an obligation on the finder's part to make initial disclosures about herself and the arrangements she has with the issuer. Subsequently, but before the investor purchases the issuer's securities, she must make the same disclosures in writing.

We do not believe those disclosure requirements are adequate. While the proposal makes clear that a Tier I or Tier II finder must not be "subject to a statutory disqualification, as that term is defined in Section 3(a)(39) of the Exchange Act, at the time of her participation," we feel it isn't enough for her to

declare her status to the potential investors with whom she has contact. Currently, most sanctioned brokers and promoters with penny stock bars have worked, and do work, as finders. In fact, many individuals operating in the shadows of the toxic financing markets have prior disciplinary and criminal histories not disclosed to the issuers or investors.

While the Tier I and Tier II finders referenced in the proposal will only be associating with accredited investors, that is perhaps insufficient protection. By definition, accredited investors are well-off. It's assumed they're also "sophisticated," but that doesn't mean they'll necessarily research the regulatory past of a finder who approaches them, which is often the case with OTC issuers.

Finders that qualify for either tier should be required to make an EDGAR filing containing the disclosures she offers to prospective investors. They should update the filing as necessary for as long as their activity for the issuer continues. As a safeguard for both investors and issuers, when a finder applies for EDGAR passcodes, she will be required to provide identification and additional materials.

It might also be wise to limit the number of transactions a finder may engage in annually. At the end of each year, she should submit a fillable form to EDGAR, listing the issuers and/or financiers who paid her, the dollar amount she raised, and the amount she was paid. That will ensure adequate disclosure to investors. If the process is made too easy, unscrupulous individuals will take advantage. We also believe that the commission must write in prohibitions from finders introducing issuers to fixed discount rate convertible note lenders (toxic death spiral financings), or this exemption could exacerbate the problem of predatory lending.

While finders may reasonably be exempt from the Exchange Act's requirement that they register as broker-dealers, their activities should not be disclosed only to issuers and investors. To allow that would be to risk the creation of a new class of virtually unregulated market professionals to join the ranks of undisclosed promoters and shady shell vendors. This is critical due to managements inexperience in the business of capital raises. A failed or legally questionable offering could damage the company's chances of success in the longer term. Ultimately, the Commission should prohibit finders' payment in connection with any "death spiral convertible note to be defined by the Commission).

With our suggestions, we believe the proposed exemptive order will help often-neglected small companies achieve capital formation and support its adoption.

Thank you for your consideration of our comments.

Sincerely,

/S/ Mark R. Basile, Esq.

Gibson, Dunn & Crutcher LLP

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www.gibsondunn.com

October 19, 2020

VIA ELECTRONIC SUBMISSION: RULE-COMMENTS@SEC.GOV

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number S7-13-20

Dear Ms. Countryman:

We appreciate the opportunity to submit comments to the Securities and Exchange Commission (the "Commission" or the "SEC") on the proposed exemptive order referenced above. *Notice of Proposed Exemptive Order Granting Conditional Exemption from the Broker Registration Requirements of Section 15(a) of the Securities Exchange Act of 1934 for Certain Activities of Finders*, Exchange Act Release No. 90,112, 85 Fed. Reg. 64,542 (Oct. 13, 2020) (the "Proposed Order"). We applaud Chairman Clayton and the Commission's continued efforts to facilitate the flow of capital to small businesses, particularly in the wake of the COVID-19 pandemic.

However, we write to raise our concern that a number of recent SEC enforcement actions that are now being litigated are directly contrary to the Commission's stated goals in the Proposed Order and, in fact, will likely diminish any benefits that small businesses would receive if the Proposed Order were promulgated. We believe that it is important for the Commission to consider the likely diminished benefits from the Proposed Order as a result of these SEC enforcement actions when assessing the potential costs and benefits of the proposed exemption—and to take corrective action by bringing those misguided enforcement actions to an end.

As the Commission notes in its notice of proposed exemptive order, Finders "often play an important and discrete role in bridging the gap between small businesses that need capital and investors who are interested in supporting emerging enterprises." 85 Fed. Reg. at 64,543. Thus, Finders can only be effective in helping secure capital for small businesses to the extent that there are investors to find who are interested in and capable of providing their capital to small businesses.

Today, a critical category of investors who provide substantial capital to small businesses are convertible note lenders. *See* Tom Zanki, *Companies Tap Convertible Debt in Droves Amid Pandemic*, Law360 (May 1, 2020), https://www.law360.com/articles/1269038 /companies-tap-convertible-debt-in-droves-amid-pandemic. These convertible note lenders loan funds to small businesses, such as publicly-traded microcap and small cap companies that are unable to access more traditional sources of capital. Typically, as part of these transactions, if the small business does not repay the loan within a certain period of time, the convertible note lender has the right to convert the outstanding loan amount into discounted shares of the publicly-traded small business, which the lender can resell into the public markets in compliance with SEC Rule 144 (17 C.F.R. § 230.144).

As we explained in an article, enclosed herewith as Exhibit A, published earlier this year in the *National Law Journal*, entitled "Aggressive SEC Enforcement Actions Could Limit Small Business Recovery Resources," the SEC Enforcement Division has brought a number of recent litigated enforcement actions targeting these convertible note lenders, alleging that they are acting as unregistered dealers in violation of Section 15 of the Exchange Act, despite the fact that these firms do not directly interact with the investing public or otherwise engage in traditional "dealer" activities. As we discuss in the article, the novel and extraordinarily expansive definition of "dealer" that the Enforcement Division has adopted in these cases is contrary to the plain terms of the Exchange Act, over a century of precedent, and decades of the Commission's own guidance. Moreover, as particularly relevant here, these enforcement actions against convertible note lenders threaten to choke off the flow of capital to the very small businesses that the Commission seeks to assist with the Proposed Order.

The Enforcement Division's actions against convertible note lenders therefore threaten to significantly decrease any benefits that small businesses could hope to receive from the Commission's easing of Finders' registration requirements. After all, decreasing the burdens on Finders does not do small businesses much good if there are many fewer investors left for the Finders to find. The Commission cannot rationally continue its extralegal crackdown on convertible note lenders, while simultaneously claiming that unburdening the Finders who seek those lenders will help facilitate capital growth. *See, e.g.*, *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016) ("[A]n '[u]nexplained inconsistency' in agency policy is 'a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.'" (second alteration in original) (quoting *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005))). The Commission can do one or the other it can continue its misguided effort to drive convertible note lenders out of business, or it can try to expand small business access to capital—but it cannot do both.

The Commission should choose responsible capital formation. That is what the markets and this country's small businesses and all who rely on them need during these

difficult times. In considering whether to adopt the Proposed Order, the Commission must therefore also abandon its extralegal assault on convertible note lenders.

Sincerely,

/s/ Helgi C. Walker

Helgi C. Walker
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HWalker@gibsondunn.com

/s/ Barry Goldsmith

Barry Goldsmith
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Direct: +1 212.351.2440
BGoldsmith@gibsondunn.com

Cc: Jay Clayton, Chairman
Caroline A. Crenshaw, Commissioner
Allison Herren Lee, Commissioner
Hester M. Peirce, Commissioner
Elad L. Roisman, Commissioner
Brett Redfearn, Director, Division of Trading and Markets

Exhibit A

THE NATIONAL LAW JOURNAL
AUGUST 20, 2020
An ALM Publication

Aggressive SEC Enforcement Actions Could Limit Small Business Recovery Resources

The commission's Enforcement Division has waged an overly aggressive and entirely unnecessary campaign against the very firms that provide capital and liquidity to the small businesses the SEC says it wants to help.

BY **HELGI WALKER, BARRY GOLDSMITH, JONATHAN SEIBALD AND BRIAN RICHMAN**

In recent public statements, the chair and other commissioners of the Securities and Exchange Commission have struck the right chord: they have vowed to leverage every tool in their regulatory tool kit to facilitate the flow of capital to the thousands of small businesses that are struggling to stay afloat in the wake of the COVID-19 pandemic. However, contrary to the SEC's stated priorities, the commission's enforcement division has waged an overly aggressive and entirely unnecessary campaign against participants in the market for convertible debt—the very firms that provide capital and liquidity to the small businesses the SEC says it wants to help. Witness *SEC v. Fierro* in the U.S. District Court for the District of New Jersey, or *SEC v. Keener* and *SEC v. Almagarby* in the U.S. District Court for the Southern District of Florida.

In these litigated enforcement actions, the enforcement division has taken the novel position that various lenders in the shares of convertible debt—firms that do not directly interact with the investing public—are actually "dealers" subject to the full range of registration and other regulatory requirements applicable to public securities businesses. Why? Because some borrowers opt to satisfy their outstanding debt by allowing the lender to convert that debt into discounted shares of stock in the borrower, which the lender under SEC regulations can sell after waiting six months. The enforcement division

SEC headquarters

insists that this well-established activity satisfies the definition of a dealer because the lender is "buying and selling securities" for its "own account."

That is just wrong. The division's theory would not only sweep in thousands of unsuspecting businesses that buy and sell securities; it breaks with the plain terms of the Securities Exchange Act, over a century of precedent and decades of the commission's own guidance. A dealer is a known quantity under our nation's securities laws, and no one—including the SEC—has ever thought that the term referred to any business that just so happened to buy and sell securities, even a lot of securities. Quite the contrary. The term distinguishes a particular, preexisting type of public securities business—a dealer—from another type of preexisting public securities

business—a "broker." Such businesses occupy two sides of the same coin. Under the Exchange Act, while a broker effectuates a client's trades as an agent—buying and selling securities for the client—a dealer effectuates a client's trades as a principal—buying and selling securities from or to the client.

Either way, the key is public customers. Many individuals and businesses trade securities—but only a broker or a dealer holds itself out to the investing public as a public securities business. The commission has long recognized as much. In 1992, for instance, in *In re Gordon Wesley Sodorff Jr.*, the commission acknowledged that certain "factors"—such as handling investors' money and securities, rendering investment advice and sending "subscription agreements to investors for their review and signature"—are what "distinguish[ed] the activities of a dealer from those of a private investor or trader." SEC guidance has made the same point for decades—listing similar customer-facing factors in, for example, 1977, 1987, 1993, 1998, 2002, 2003, 2007 and 2008. And the courts have long agreed, as the U.S. District Court for the Northern District of Texas explained in 2016, in *Chapel Investments v. Cherubim Interests*: "To be considered a dealer, a person must be engaged in the securities business, such as soliciting investor clients, handling investor clients' money and securities, rendering investment advice to investors, and sending investors subscription agreements for their review and execution."

This customer focus is not just compelled by the law, but by sound public policy. Dealers, after all, are subject to an expensive, complex regulatory regime designed to protect investors, including standards of professional conduct, financial responsibility requirements, record-keeping requirements and employee-supervisory obligations. Which is all well and good for entities with customers, but entirely nonsensical for businesses without that just happen to buy and sell securities for their own account.

For these reasons, convertible debt lenders are not—and, before the Enforcement Division's misguided enforcement endeavor, have never been—considered dealers. A convertible debt lender, as the name implies, loans money to a small business in exchange for a convertible note. It is not, to quote the Exchange Act, in the "regular business" of "dealing." It does not "buy[ ] and sell[ ]" the same security in the same condition. It does not interact with the investing public. It does not hold investor's securities. It does not quote a two-way market. And it does not offer investment advice—to anyone, ever. In no world, then, is it engaged in the public-facing business of offering dealer services to others.

That should end the matter. The Enforcement Division should never try to change the law (not to mention the commission's long-standing guidance) through regulation by enforcement, outside the proper legislative or rulemaking processes. That is especially true here, where the Enforcement Division's targeting of vital financing providers threatens to take much-needed capital out of the convertible debt markets, squeezing small businesses and introducing a level of regulatory uncertainty that would be inappropriate in the best of times—and we are far from that. If the Enforcement Division really believes that convertible debt lenders are dealers just because their business involves buying and selling securities, who is next? Hedge funds? Investment companies? Day traders?

Consistent with its stated goal of supporting small businesses during the pandemic, and in order to adhere to the long-established meaning of "dealer" under the federal securities laws, the commission should rein in the Enforcement Division's misguided campaign against those who provide much-needed capital to small businesses through the convertible debt market.

Helgi Walker *is a partner at Gibson, Dunn & Crutcher and chair of the firm's administrative law and regulatory practice group. Barry Goldsmith is a partner at the firm and co-chair of the firm's securities enforcement practice group. Jonathan Seibald and Brian Richman are associates at the firm.*

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From: Brian A. Lebrecht
To: Zepralka, Jennifer
Cc: Keith M. Woodwell; Kody L. Condos
Subject: RE: Small Business Concern
Date: Tuesday, May 26, 2020 1:34:16 PM

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I'll send a calendar invite as well with the number.

Clyde Snow Conference Line:

Dial-In Number:	Access Code:
(866) 906-7447	**8041496#**

From: Zepralka, Jennifer [mailto:(b)(6) @SEC.GOV]
Sent: Tuesday, May 26, 2020 11:31 AM
To: Brian A. Lebrecht
Cc: Keith M. Woodwell ; Kody L. Condos
Subject: RE: Small Business Concern

Great, thank you. A dial-in would be helpful. I will likely be joined by someone from our chief counsel's office, and will forward on the dial in to them when you send it.

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Tuesday, May 26, 2020 1:22 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>; Kody L. Condos <klc@clydesnow.com>
Subject: RE: Small Business Concern

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jennifer, thank you for the timely response.
We can talk Wed at 3:30 ET. Would you like me to circulate a dial in?

From: Zepralka, Jennifer [mailto:(b)(6) @SEC.GOV]
Sent: Tuesday, May 26, 2020 6:36 AM
To: Brian A. Lebrecht <BAL@clydesnow.com>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Hi Brian,
Thanks for reaching out – we are interested in hearing your concern. We can be available tomorrow (Wednesday) at 3:30 Eastern, or Thursday between 1:00 and 4:00 Eastern. Please let me know if there is a time that can work for you.
Best,
Jennifer

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Friday, May 22, 2020 2:03 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: Small Business Concern

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Jennifer, we met at an event last year somewhere. I had a few interactions with your predecessor, (b)(6)

My partner and I would like to know if we can schedule a phone call with you next week to talk about a brewing concern for smaller public companies as it relates to convertible note holders being characterized as dealers, and the negative impact it is having on the financing market.

If you are willing, can you email us a couple days and times? We are Mountain Time.

Brian A. Lebrecht

ClydeSnow

ATTORNEYS AT LAW

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From: Zepralka, Jennifer
To: "Brian A. Lebrecht"
Cc: Keith M. Woodwell
Subject: RE: Small Business Concern
Date: Friday, June 19, 2020 11:26:36 AM

Hi Brian – let me check in with the folks in our chief counsel's office and get back to you. Hope you are well!

From: Brian A. Lebrecht
Sent: Friday, June 19, 2020 10:43 AM
To: Zepralka, Jennifer
Cc: Keith M. Woodwell
Subject: FW: Small Business Concern

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jennifer, can we set a follow-up call for late in the week next week?

From: Brian A. Lebrecht
Sent: Wednesday, June 17, 2020 3:59 PM
To: 'Zepralka, Jennifer' <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Jennifer, I'm working from home today and didn't bring your phone number, otherwise I would have called.

I wanted to follow-up our telephone conversation about convertible note holders and the dealer issue. We continue to hear frustration from the marketplace, and our clients of course. We have also been told that this might be spearheaded by trading and markets, which could make some sense, but I wonder if they fully understand the impact on the corporate finance market. We'd like to talk again if you have any updates.

From: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Sent: Tuesday, May 26, 2020 6:36 AM
To: Brian A. Lebrecht <BAL@clydesnow.com>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Hi Brian,

Thanks for reaching out – we are interested in hearing your concern. We can be available tomorrow (Wednesday) at 3:30 Eastern, or Thursday between 1:00 and 4:00 Eastern. Please let me know if there is a time that can work for you.

Best,
Jennifer

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Friday, May 22, 2020 2:03 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: Small Business Concern

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Jennifer, we met at an event last year somewhere. I had a few interactions with your predecessor, (b)(6) .

My partner and I would like to know if we can schedule a phone call with you next week to talk about a brewing concern for smaller public companies as it relates to convertible note holders being characterized as dealers, and the negative impact it is having on the financing market.

If you are willing, can you email us a couple days and times? We are Mountain Time.

Brian A. Lebrecht

Snow

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Assistant – Marsha Mann: MMann@clydesnow.com
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From: Brian A. Lebrecht
To: Zepralka, Jennifer; Keith M. Woodwell
Cc: Turk, Adam
Subject: RE: Small Business Concern
Date: Tuesday, June 30, 2020 7:23:51 PM

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Jennifer, I tried to accept, but it won't go, or maybe I sent it to you 10 times. Either way, I'll be on the call.

From: Zepralka, Jennifer [mailto:(b)(6) @SEC.GOV]
Sent: Tuesday, June 30, 2020 4:09 PM
To: Keith M. Woodwell ; Brian A. Lebrecht
Cc: Turk, Adam
Subject: RE: Small Business Concern

Great, let's plan on 2:00 ET on Thursday. I will send a dial in. Thanks!

From: Keith M. Woodwell <kmw@clydesnow.com>
Sent: Tuesday, June 30, 2020 6:04 PM
To: Brian A. Lebrecht <BAL@clydesnow.com>; Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Turk, Adam <(b)(6) @SEC.GOV>
Subject: RE: Small Business Concern

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I can be available at 2 pm ET or later as well.

Keith M. Woodwell
Director and Shareholder
Co-Chair of Securities/White-Collar Practice Group

ClydeSnow
P: 801.433.2430
kmw@clydesnow.com

From: Brian A. Lebrecht
Sent: Tuesday, June 30, 2020 4:01 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>; Turk, Adam <(b)(6) @SEC.GOV>
Subject: RE: Small Business Concern

I can do 2pm ET, or later. Keith?

From: Zepralka, Jennifer [mailto:(b)(6) @SEC.GOV]
Sent: Tuesday, June 30, 2020 3:44 PM
To: Brian A. Lebrecht <BAL@clydesnow.com>
Cc: Keith M. Woodwell <kmw@clydesnow.com>; Turk, Adam <(b)(6) @SEC.GOV>
Subject: RE: Small Business Concern

Hi Brian,

Do you have time for a quick call on Thursday? Adam and I are mostly available between 1:00 and 4:00 pm (Eastern time). Please let us know if there is a time in that window that can work for you.

Thanks,
Jennifer

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Friday, June 19, 2020 10:43 AM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: FW: Small Business Concern

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Jennifer, can we set a follow-up call for late in the week next week?

From: Brian A. Lebrecht
Sent: Wednesday, June 17, 2020 3:59 PM
To: 'Zepralka, Jennifer' <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Jennifer, I'm working from home today and didn't bring your phone number, otherwise I would have called.

I wanted to follow-up our telephone conversation about convertible note holders and the dealer issue. We continue to hear frustration from the marketplace, and our clients of course. We have also been told that this might be spearheaded by trading and markets, which could make some sense, but I wonder if they fully understand the impact on the corporate finance market. We'd like to talk again if you have any updates.

From: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Sent: Tuesday, May 26, 2020 6:36 AM
To: Brian A. Lebrecht <BAL@clydesnow.com>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Hi Brian,

Thanks for reaching out – we are interested in hearing your concern. We can be available tomorrow (Wednesday) at 3:30 Eastern, or Thursday between 1:00 and 4:00 Eastern. Please let me know if there is a time that can work for you.

Best,
Jennifer

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Friday, May 22, 2020 2:03 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: Small Business Concern

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Jennifer, we met at an event last year somewhere. I had a few interactions with your predecessor, (b)(6).

My partner and I would like to know if we can schedule a phone call with you next week to talk about a brewing concern for smaller public companies as it relates to convertible note holders being

characterized as dealers, and the negative impact it is having on the financing market.
If you are willing, can you email us a couple days and times? We are Mountain Time.
Brian A. Lebrecht

ClydeSnow
ATTORNEYS AT LAW
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D: (b)(6)
F: 801.521.6280
Assistant – Marsha Mann: MMann@clydesnow.com
www.clydesnow.com

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From: Zepralka, Jennifer
To: Turk, Adam
Subject: FW: Small Business Concern
Date: Tuesday, May 26, 2020 1:31:00 PM

Please hold 3:30 tomorrow to talk to these folks. I'll forward you the dial in when I get it. Thanks!

From: Brian A. Lebrecht
Sent: Tuesday, May 26, 2020 1:22 PM
To: Zepralka, Jennifer
Cc: Keith M. Woodwell ; Kody L. Condos
Subject: RE: Small Business Concern

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jennifer, thank you for the timely response.
We can talk Wed at 3:30 ET. Would you like me to circulate a dial in?

From: Zepralka, Jennifer [mailto:(b)(6) @SEC.GOV]
Sent: Tuesday, May 26, 2020 6:36 AM
To: Brian A. Lebrecht <BAL@clydesnow.com>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: RE: Small Business Concern

Hi Brian,
Thanks for reaching out – we are interested in hearing your concern. We can be available tomorrow (Wednesday) at 3:30 Eastern, or Thursday between 1:00 and 4:00 Eastern. Please let me know if there is a time that can work for you.
Best,
Jennifer

From: Brian A. Lebrecht <BAL@clydesnow.com>
Sent: Friday, May 22, 2020 2:03 PM
To: Zepralka, Jennifer <(b)(6) @SEC.GOV>
Cc: Keith M. Woodwell <kmw@clydesnow.com>
Subject: Small Business Concern

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If you are willing, can you email us a couple days and times? We are Mountain Time.
Brian A. Lebrecht

Snow

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www.clydesnow.com

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