

Exhibit A

**MEMORANDUM IN SUPPORT OF SEAFORTH
MERIDIAN, LTD.'S
APPLICATION FOR LEAVE TO INTERVENE**

Clyman Affidavit

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
TOPEKA DIVISION**

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SECURITIES EXCHANGE COMMISSION,

Plaintiff,

vs.

Civil Action No. 05-4057 (SAC)

DAVID TANNER, individually and d/b/a
CAPITAL ENHANCEMENT CLUB
ROCKY D. SPENCER,
MARROC CORP., and
RICHARD P. KRINGER,

**AFFIDAVIT OF
TIMOTHY J. CLYMAN IN SUPPORT
OF MOTION TO INTERVENE**

Defendants.

and

MARGARET F. SPENCER,
OMNIBUS LLC,
VECTRA RESOURCES LL, and
DYNAMIC ENVIRONMENTAL SOLUTIONS, INC.,

Relief Defendants.

-----X

TIMOTHY J. CLYMAN, CFP, being duly sworn, deposes and says:

1. I am a Certified Financial Planner and Corporate Registered Investment Advisor and own and operate Clyman & Associates, Inc. in Encinitas, California. I work with Individuals, Retirement Plans, Companies and Trusts.

2. I am also a Managing Member of Seaforth Meridian, Ltd., a Florida Limited Partnership (“Seaforth”), and a Member of Seaforth Meridian Management, LLC, a Florida Limited Liability Company (“Seaforth Management”) that is the manager of Seaforth. The limited partners of Seaforth are all investors in the hedge fund managed by Seaforth Management. Seaforth and Seaforth Management have been served with *subpoenae duces tecum* in connection with the above-captioned action by Larry E. Cook, the Receiver *pendente lite* (the “Receiver”), appointed by the Court in this matter. In addition, the Receiver is

attempting to require Seaforth to comply with that portion of a Stipulated Order Granting, in Part, Receiver's Motion for Turnover of Property, So Ordered by this Court on August 11, 2005 (the "Stipulated Order"), in a manner that may have a seriously adverse effects on the funds of Seaforth's investors. Seaforth was not a party to this action at the time the Stipulated Order was executed. The complaint filed by the Securities and Exchange Commission in this action and the Stipulated Order are annexed hereto as Exhibits "A" and "B", respectively.

3. This Affidavit is respectfully submitted in support of the "Application" by Seaforth, pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, to permit Seaforth to intervene in the above-caption matter so that it may protect its investments and its investors from actions proposed to be taken by the Receiver at the direction of the Securities and Exchange Commission ("SEC").

4. Seaforth seeks to intervene in this action so that it may make an "Application" to the Court seeking to modify the Stipulated Order as follows:

(i) By providing that the Receiver may not interfere with any of the "Investments" of Seaforth, including, but not limited to, Seaforth's investments in Quantum Analytics, Lochwinnoch-Renfrewshire, Scotland ("Quantum") and/or Meriton Overseas, Zurich, Switzerland ("Meriton"), either by exercising legal, extra legal, and/or non-legal procedures to force an untimely redemption of any of the Investments;

(ii) By providing that the Receiver may not attempt to obtain a payment to the Receiver of a percentage of any of the Investments in excess of the Receiver's thirty-two percent (32%) interest (the "Receiver's Interest") in the Investments;

(iii) To require that the Receiver accept 32% any of the losses suffered by any of the Investments;

(iv) By providing that the Receiver may not seek to enforce the provisions of the of the Stipulated Order, as they may apply to Seaforth, in their present form; and

(v) To amend the Stipulated Order to modify those provisions that would lead to results that are either illegal or patently unfair and prejudicial to the Seaforth investors.

5. As will be more fully explained below, the actions contemplated by the Receiver, as the behest of the SEC, as disclosed to current counsel for Seaforth, almost without question will have a seriously prejudicial effect on the Seaforth investors other than the Receiver, will violate the terms of the subscription agreement signed by the Receiver's predecessor investor,

and will discriminate unfairly against the other investors in favor of the Receiver, and may very well destroy Seaforth by destroying its ability to make future investments.

Background

6. Seaforth is an SEC registered “hedge fund”, which is an actively managed investment fund that seeks attractive absolute return. Hedge funds are designed for a small number (maximum 99) of investors, and the manager of the fund receives a percentage of the profit earned. In pursuit of an absolute return objective, hedge funds use a wide variety of investment strategies and tools. Hedge funds do not, typically offer liquidity. They place strict limitations on both investments and redemptions to enable them to let their investments work.

7. It’s not uncommon for hedge funds to have lock up periods for 1, 2 and 3 years to enable managers to line up long-term relationships, negotiate advantageous deal terms, place the assets under management in potentially profitable investments, and allow these investments to reach maturity and, as a result, generate profits on an absolute basis for its investors. Hedge funds use many strategies to generate these absolute rates of return and lack of daily liquidity is one of the common strategies that allow these investments to work.

Grounds for Intervention

8. The Receiver currently represents the interests of one, albeit the largest, investor in Seaforth. This investor, Mark Zarubi, and his company, Cedax Limited (“Cedax”), invested approximately \$9,409,000.00 in Seaforth over a span of several months beginning in mid-December 2004 through early 2005. Seaforth and Seaforth Management performed all of the required due diligence background checks on Mr. Zarubi and Cedax, including a Patriot Act check performed by an independent third party. The investment made by Mr. Zarubi and/or Cedax (the “Zarubi/Cedax Interest”) currently represents 32% of the total assets currently under management by Seaforth and Seaforth Management.

9. Seaforth is a “pooled-assets” hedge fund. Thus, it is imperative to understand that, when an investor places money with Seaforth for management, that money is pooled with all other assets under management and the investor receives a percentage interest in all of Seaforth’s investments equal to the amount invested by that particular investor divided by the total current assets of the fund. It is also imperative to understand that while the Zarubi/Cedax

Interest might increase in value if the assets of the fund increased, it would also decrease in value if the assets of the fund decreased in value. Mr. Zarubi was well aware of this risk, as are all of Seaforth's investors, at the time he made the investment. He fully understood that he might lose the entire investment. In addition, Mr. Zarubi agreed to a one year lock-up period, which does not expire until December 2005. Furthermore, the largest single investment made by Seaforth (the Meriton investment) has a lock-up period that does not expire until June 2006.

10. The Receiver has taken over the Zarubi/Cedax Interest. and, as a result, stands in the shoes of the original investor and must take his risks along with all of the other investors. While the Receiver may currently be entitled to 32% of the Seaforth assets, he must accept the reality that if the asset value decreases, the 32% interest will not equal the total investment made by Mr. Zarubi. In addition, when any single investment is redeemed, the Receiver is only entitled to 32% of the redeemed funds. Finally, it is respectfully submitted that the Receiver has no right to demand the redemption of the original Zarubi/Cedax Interest or any of Seaforth's investments before the end of the applicable lock-up periods. Unfortunately, the Receiver does not accept this reality and insists that he is entitled to immediately receive back the entire investment, without regard to lock up periods or losses, and without regard to the adverse effect this would have on all of the other innocent investors in the hedge fund.

11. The Receiver has indicated his intention to Seaforth's current counsel to try and force the redemption of Seaforth investments (despite the lock up period agreed to by Mr. Zarubi) and to recover the full investment made by Mr. Zarubi and/or Cedax without regard to the effects this may have on the other Seaforth investors.

12. Under these circumstances, Affiant respectfully submits that Seaforth and Seaforth Management must intervene in this action in order to protect the viability of the fund and the assets of all of its investors.

Impairment of Seaforth's Ability to Protect its Assets and Investors

13. Seaforth currently has approximately 63 Limited Partner Investors other than the Receiver. 23 of these investors are IRA and retirement plans representing 36% of the total investors in Seaforth. These are regular hard working people who invested their IRA funds in good faith, expecting to be treated similarly in return. Many of these investors are already retired and depend on income from Seaforth for their monthly income needs.

14. Seaforth was built by the current General Partners one investor at a time. This is much more difficult process that starting with substantial amounts of seed money. As a result, Seaforth needed to beg relationships with other firms to allow it to participate in their strategies. Seaforth was fortunate to be able to establish relationships with several firms including Quantum, Meriton, and Hartsfield capital. As a result of the Receiver's actions to date, Seaforth's relationship with Quantum has been destroyed. The Receiver now wants to destroy Seaforth's relationship with Meriton, despite the adverse financial affect that this would have on 63 innocent investors, not to mention Seaforth.

15. The Stipulated Order signed by Mr. Catuzzi required that Seaforth pay the Receiver \$8,998,513.00 in two installments, the first on or before August 15, 2005 and the second on or before October 15, 2005. This amount represented the full investment of Mr. Zarubi and completely disregarded the fact that, in order to make these payments, investments would need to be redeemed and that losses might be incurred in so doing. Mr. Catuzzi was mistaken in permitting Seaforth to stipulate to the Stipulated Order.

16. To date, Seaforth has been able to pay the Receiver \$4,110,185.00, leaving a "Balance Due" of \$4,888,328.00, less the loss incurred in the Hartsfield investment in the amount of \$324,000.00 (See, paragraph 19, *infra*), or \$4,564,328.00. Seaforth is diligently attempting to redeem sufficient investments to pay this balance but in a manner that will not adversely affect its other investors.

17. The Receiver has now advised Seaforth's current counsel that he intends to go to Switzerland and force the redemption of Seaforth's investment in Meriton, and take the entire Balance Due from this investment. Seaforth's investment with Meriton is currently \$7.75 million. The Receiver's 32% interest in this investment is \$2,480,000.00. Thus, the Receiver is intending to take approximately \$2,500,000.00 that belongs to innocent investors. In addition, by forcing a redemption, Seaforth will lose its relationship with Meriton and may not be able to reinvest the remaining funds in equally profitable investments. This, of course, would seriously adversely affect the amount of income being currently paid to other investors. Furthermore, the result might be the complete destruction of Seaforth as a viable entity.

18. Finally, one of the investments in which the Receiver has an interest has generated a loss of \$1,050,000.00. The Receiver's share of this loss is \$324,000.00. However, the Receiver has advised Seaforth's current counsel that he has no intention of deducting this

loss. Thus, the Receiver is seeking to push a loss of \$324,000.00 on the other innocent investors in Seaforth.

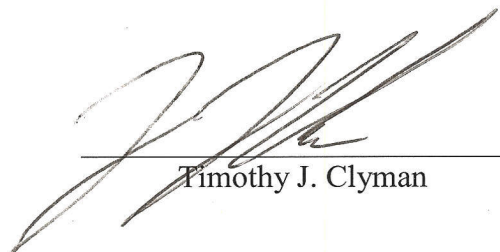
19. Seaforth is attempting to redeem its \$6 million dollar investment in Quantum. If Seaforth is successful, the Receiver would be entitled to 32% of the \$6 million, or \$1,920,000.00. Once again, it is the Receiver's intention to take the entire Balance Due from either the Quantum redemption or the Meriton redemption, whichever occurs first. The Receiver has advised our counsel that the Stipulated Order requires Seaforth pay the entire Balance Due, without regard to losses, and without regard to the effect on other investors, and that its failure to do so will result in the Receiver seeking to have Seaforth held in contempt of Court.

20. Seaforth has not been accused of any wrongdoing and has no interest in this action other than to protect its assets and its investors. Seaforth is perfectly willing to return the entire Balance Due, but in a manner that will not have unnecessary adverse consequences. At the same time, Seaforth has no desire to be held in contempt of court. Seaforth respectfully submits that, despite the Stipulated Order, which Seaforth believes never should have been signed by its former counsel, the Receiver does not have the right to run roughshod over the other Seaforth investors, trampling them and their investments with no regard for the outcome.

21. Seaforth has agreed, and continues to agree, to do everything within its power to refund the Balance Due. But Seaforth must also do everything it can to protect its relationships, and the financial well-being of its limited partners and the fund.


WHEREFORE, Affiant respectfully requests that this Court permit Seaforth to intervene and to serve the proposed pleading annexed as Exhibit "C", and to grant such other, further or different relief as the Court may deem just and proper.

Dated: November 21, 2005
Encinitas, California



Timothy J. Clyman

Sworn to before me this
____ day of November, 2005



Notary Public

State of California
County of San Diego
Subscribed & sworn to (or affirmed)
before me this 21 day of NOV, 2005
by TIMOTHY J. CLYMAN, proved to
me on the basis of satisfactory evidence
to be the person(s) who appeared before me

