

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC**

**PLAINTIFF**

**vs.**

**ACTION NO. 3:20-CV-232-CWR-FKB**

**JON DARRELL SEAWRIGHT**

**DEFENDANT**

**JURY TRIAL DEMANDED**

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**ANSWER AND AFFIRMATIVE DEFENSES OF JON DARRELL SEAWRIGHT  
TO ADVERSARY COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT  
PURSUANT TO 11 U.S.C. § 523**

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Defendant Jon Darrell Seawright (“Seawright” or “Defendant”), by and through undersigned counsel, files this Answer and Answer and Affirmative Defenses to the “Adversary Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. § 523” (the “Complaint”) filed by Alysson Mills, in her capacity as Receiver for Arthur Lamar Adams (“Adams”) and Madison Timber Properties, LLC (“Madison Timber”).<sup>1</sup>

**ANSWER**

Subject to and without waiving any of their affirmative defenses stated below, Seawright answers the specific allegations of the Complaint, paragraph by paragraph, each of the following numbered and unnumbered paragraphs corresponding to those in the Complaint. For convenience, Seawright may answer several consecutive paragraphs of the Complaint with a single response, identifying the paragraphs to which the response is directed. All allegations of

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<sup>1</sup> The Receiver initially filed her Adversary Complaint in the United States Bankruptcy Court for the Southern District of Mississippi, Case No. 20-00011-NPO, Doc 1.

the Complaint that are not expressly admitted in this Answer are denied. Seawright's admissions are confined to the exact language in this Answer, and to the extent that any response varies from the wording of the allegations of the Complaint, those allegations are denied. Seawright denies all allegations and inferences contained in the headings and subheadings used in the Complaint.

### **INTRODUCTION**

The Receiver's allegations in her Introduction are not directed to Seawright and therefore do not require a response from him. To the extent a response is required from Seawright, he is without sufficient knowledge and information to respond to all of the allegations in the Introduction and therefore denies the same, except as follows. Seawright admits: it is apparent that Adams and Madison Timber operated a Ponzi scheme that defrauded hundreds of lenders, including Seawright; Seawright believed that Madison Timber used his money as well as money from others to purchase timber from landowners, sold the timber to lumber mills at a higher price, and repaid lenders their principal plus interest with the proceeds of the timber sales. Seawright denies the remaining allegations in the Introduction. All allegations not expressly admitted are denied. Seawright affirmatively states that he had no knowledge of Adams's fraudulent conduct or his intent to operate Madison Timber as a Ponzi scheme.

### **JURISDICTION AND VENUE**

1. The allegations in Paragraph 1 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, he denies that this Court has subject matter jurisdiction because the Receiver lacks standing to bring claims against Seawright on behalf of Adams and Madison Timber. Seawright admits that if this Court has subject matter jurisdiction, venue is proper in this Court. All allegations not expressly admitted are denied.

## **PARTIES**

2. The allegations in Paragraph 2 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required, Seawright denies the Receiver is a creditor and party-in-interest. Seawright denies that the Receiver has standing to bring claims against Seawright on behalf of Adams and Madison Timber or as the holder of assignments executed by investors. All allegations not expressly admitted are denied.

3. Seawright admits the allegations in Paragraph 3.

## **PROCEDURAL HISTORY**

### **The S.E.C.'s enforcement action**

4. Seawright admits, upon information and belief, that a separate civil action is pending before this Court styled *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC*, No. 3:18-cv-252-CWR-FKB. The pleadings filed in that action speak for themselves. All allegations not expressly admitted are denied.

5. Seawright admits that the Court appointed Plaintiff as the Receiver. The pleadings cited in footnotes 3 and 4 of the Complaint speak for themselves. All allegations not expressly admitted are denied.

### **The Receiver's ancillary action**

6. To the extent that the allegations in Paragraph 6 require a response from Seawright, the pleadings cited in Paragraph 6 and in footnote 5 speak for themselves. Seawright affirmatively denies that the Receiver has standing to bring any suit or claim against him. All allegations not expressly admitted are denied.

7. To the extent that the allegations in Paragraph 7 require a response from Seawright, he admits that the Receiver initiated a lawsuit against him, Alexander Seawright, LLC, and Baker Donelson. The complaint and amended complaint filed in that separate action (Civil Action Number 3:18-CV-00866-CWR-FKB, which will be referred to in this Answer as the “District Court Action”) and referenced in Paragraph 7 and footnote 6 speak for themselves. Seawright denies that the Receiver is entitled to the relief requested in the separate complaints filed against him or to any relief whatsoever from Seawright. Seawright denies the Receiver has standing to bring any suit or claim against him. All allegations not expressly admitted are denied.

8. Seawright is without sufficient knowledge and information to admit or deny the allegations in the first sentence of Paragraph 8 and therefore denies the same. Notably, the Receiver did not attach any of the alleged assignments to the Complaint, nor has she produced them to Seawright in this or any other action. The allegations in the second sentence of Paragraph 8 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required from Seawright, he denies that the Receiver has standing to pursue claims against him. All allegations not expressly admitted are denied.

9. Seawright admits the allegations contained in Paragraph 9.

10. To the extent that the allegations in Paragraph 10 require a response from Seawright, he admits upon information and belief that the District Court Action filed by the Receiver has been stayed as to him but is otherwise proceeding. The Court is of course aware of the status of the District Court Action. All allegations not expressly admitted are denied.

#### **ADAMS AND MADISON TIMBER**

11. To the extent that the allegations in Paragraph 11 require a response from Seawright, he admits that Adams, through Madison Timber, operated a Ponzi scheme that

purported to purchase timber from landowners and resell it to lumber mills at higher prices. All allegations not expressly admitted are denied.

12. To the extent that the allegations in Paragraph 12 require a response from Seawright, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 12 and therefore denies the same.

13. To the extent that the allegations in Paragraph 13 require a response from Seawright, he admits that he believed Madison Timber would use the loans to acquire timber deeds and cutting agreements; that Madison Timber would sell the timber to lumber mills at a higher price; and that Madison Timber would use proceeds of those sales to repay the lenders principal plus interest. All allegations not expressly admitted are denied.

14. To the extent that the allegations in Paragraph 14 require a response from Seawright, he admits that lenders received promissory notes in the amount of their loans, payable in twelve monthly installments together with promised interest. He admits that lenders received twelve pre-dated checks, each in the amount of the installment due under the promissory note. He admits that lenders received a timber deed and cutting agreement by which a named landowner purported to grant to Madison Timber the rights to harvest timber on the land described in the deed and by which Madison Timber purported to grant its rights to the lender. All allegations not expressly admitted are denied.

15. To the extent that the allegations in Paragraph 15 require a response from Seawright, he admits upon information and belief that most if not all of the timber deeds and cutting agreements have been deemed to be fraudulent. Seawright is without sufficient knowledge and information to admit or deny the remaining allegations in Paragraph 15 and therefore denies the same. All allegations not expressly admitted are denied.

16. To the extent that the allegations in Paragraph 16 require a response from Seawright, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 16 and therefore denies the same.

17. To the extent that the allegations in Paragraph 17 require a response from Seawright, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 17 and therefore denies the same.

18. To the extent that the allegations in Paragraph 18 require a response from Seawright, he admits that Adams turned himself into authorities on or about April 19, 2018. Seawright is without sufficient knowledge and information to admit or deny the remaining allegations in Paragraph 18 and therefore denies the same. All allegations not expressly admitted are denied.

19. To the extent that the allegations in Paragraph 19 require a response from Seawright, he admits the allegations in Paragraph 19, upon information and belief.

20. To the extent that the allegations in Paragraph 20 require a response from Seawright, he admits the allegations in Paragraph 20, upon information and belief.

21. The allegations in Paragraph 21 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required from Seawright, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 21 and therefore denies the same.

22. The allegations in Paragraph 22 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required from Seawright, he denies the allegations in Paragraph 22.

23. The allegations in Paragraph 23 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required from Seawright, he denies the allegations in Paragraph 23.

**SEAWRIGHT AND BAKER DONELSON**

24. Denied.

**A joint venture**

25. Denied.

26. Seawright denies that he formed a partnership with Adams. Seawright denies that he is personally liable for the debts of Alexander Seawright, LLC. Seawright admits that Alexander Seawright, LLC worked in good faith to coordinate loans from Alexander Seawright Timber Fund I, LLC (“Timber Fund I”), of which Alexander Seawright, LLC was a member, to Madison Timber. In exchange for its work coordinating the loans, Madison Timber paid Alexander Seawright, LLC loan-origination fees. Seawright denies Adams paid loan-origination fees directly to Seawright. Seawright admits that he believed the loans were low risk. Seawright denies the allegedly quoted language set forth in Paragraph 26 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

27. Seawright admits that he believed Madison Timber was a legitimate business that presented an opportunity for lenders to earn interest on their loans. Seawright denies that he pitched the first loan opportunity to a client of Baker Donelson. Seawright denies the allegedly quoted language set forth in Paragraph 27 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

28. Seawright admits that Madison Timber paid Alexander Seawright, LLC loan-origination fees. Seawright admits that Adams sometimes referred to the fees as “birddog fees.” Seawright denies that he is personally liable for the actions or debts of Alexander Seawright LLC. Seawright denies the allegedly quoted language set forth in Paragraph 28 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

29. Seawright admits that Madison Timber paid Alexander Seawright, LLC loan-origination fees. Seawright denies that he is personally liable for the actions or debts of Alexander Seawright, LLC. Seawright denies the remaining allegations of Paragraph 29.

30. Seawright admits that Alexander Seawright, LLC prepared subscription agreements and accompanying documents for the loans to Madison Timber from Timber Fund I, which was initially called Alewright Investments, LLC. Seawright admits that Alexander Seawright, LLC worked in good faith to coordinate loans from Timber Fund I, of which Alexander Seawright, LLC was a member, to Madison Timber. In exchange for its work coordinating the loans, Madison Timber paid Alexander Seawright, LLC loan-origination fees. Seawright denies he is personally liable for the actions or debts of Alexander Seawright, LLC. Seawright denies the remaining allegations of Paragraph 30.

### **The pitch**

31. Seawright denies that he “pitched their fund to potential investors, including Baker Donelson clients, as an exclusive ‘friends and family’ fund.” Seawright admits that Brent Alexander used the phrase “simple, elegant and profitable” to describe the Timber Fund I loan model. Seawright denies that “neither Alexander nor Seawright invested their own money in the fund.” Seawright denies the other allegedly quoted language in Paragraph 31 to the extent the

same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

32. Denied.

**Easy money**

33. Seawright denies that he undertook no meaningful evaluations of the loans. Seawright admits that he asked about potential risks to the timber in the event of natural disasters, and he received assurances from Adams that all tracts were covered by an umbrella insurance policy. Seawright denies the quoted language set forth in Paragraph 33 to the extent the same is inconsistent with documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

34. Seawright admits that he gave lenders “Equity Term Sheets” that described the terms of loans to be made from Timber Fund I to Madison Timber. Seawright denies that the March 5, 2017 Equity Term Sheet states that the he would personally inspect the property. Seawright denies the quoted language set forth in Paragraph 34 to the extent the same is inconsistent with documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

35. Seawright admits that he prepared a loan closing checklist that speaks for itself. Seawright denies the remaining allegations in Paragraph 35.

36. Seawright admits that he inspected tracts of land that were the subjects of the property deeds. Seawright denies the quoted language set forth in Paragraph 36 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

37. Denied.

38. Denied.

39. The allegations in Paragraph 39 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required from Seawright, he denies all of the allegations in Paragraph 39.

40. Seawright denies that he did not undertake meaningful investigations of the loans. Seawright denies the allegedly quoted language set forth in Paragraph 40 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

41. Denied.

**Red flags**

42. Denied.

43. Seawright admits upon information and belief that the majority of timber deeds and cutting agreements have been deemed to be fraudulent. Seawright denies that he should have recognized that the signatures were forged by Adams, because the deeds were notarized. Seawright denies the remaining allegations in Paragraph 43.

44. Seawright lacks sufficient knowledge and information to admit or deny whether Madison Timber ever had any real contracts with mills and whether a call to the mills would have “confirmed the truth,” and therefore denies those allegations. Seawright admits that he never called a mill. All allegations not expressly admitted are denied.

45. Seawright admits that Adams required lenders to agree not to record the deeds unless Madison Timber failed to make a payment due under the promissory note. Seawright denies the quoted language set forth in Paragraph 45 to the extent the same is inconsistent with

the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. Seawright denies the remaining allegations in Paragraph 45.

46. Seawright is without sufficient knowledge and information to admit or deny the allegations in the first sentence of Paragraph 46 and therefore denies the same. Seawright denies the allegedly quoted language set forth in Paragraph 46 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. Seawright denies the remaining allegations in Paragraph 46.

47. Seawright is without sufficient knowledge and information to admit or deny the allegations in the first two sentences of Paragraph 47 and therefore denies the same. Seawright denies that he never “evaluated the investment in light of” market considerations. Seawright denies the allegedly quoted language set forth in Paragraph 47 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

48. Seawright admits that Adams told him that Madison Timber would not issue checks in December going forward and that what had been a 12-month payoff would become a 13-month payoff, skipping the last month of the year. Seawright denies the allegedly quoted language set forth in Paragraph 48 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. Seawright denies the remaining allegations in Paragraph 48.

**Alexander Seawright Timber Fund II**

49. Seawright denies the allegedly quoted language set forth in Paragraph 49 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. Seawright affirmatively states that

Alexander Seawright Timber Fund II, LLC (“Timber Fund II”) was formed on April 23, 2018, the day before Seawright learned that Madison Timber was a sham. Timber Fund II never started operations, it never accepted any members other than Alexander Seawright, LLC, and it never participated in any loans to Madison Timber. All allegations not expressly admitted are denied.

50. Seawright denies the allegedly quoted language set forth in Paragraph 50 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. Seawright admits that he used Baker Donelson’s Jackson, Mississippi office for business related to Timber Fund I. Again, Seawright affirmatively states that Timber Fund II was formed on April 23, 2018, the day before Seawright learned that Madison Timber was a sham. Fund II never started operations, it never accepted any members other than Alexander Seawright, LLC, and it never participated in any loans to Madison Timber. All allegations not expressly admitted are denied

51. Seawright admits that he formed Timber Fund II. Seawright admits that he compiled information regarding his proposal for Timber Fund II to share with potential lenders, which speaks for itself. Seawright denies the allegedly quoted language set forth in Paragraph 51 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

52. Seawright admits that he compiled information regarding his proposal for Timber Fund II to share with potential lenders, which speaks for itself. Seawright denies the allegedly quoted language set forth in Paragraph 52 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

53. Seawright admits that he received feedback regarding Timber Fund II that was “not all good.” Seawright denies the quoted language set forth in Paragraph 53 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

54. Seawright denies that he did not stand to lose money in Timber Fund I. Seawright further denies that he would not have stood to lose money in Timber Fund II, had it begun operations. Seawright denies the quoted language set forth in Paragraph 54 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

55. Seawright denies the quoted language set forth in Paragraph 55 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

56. Seawright denies the quoted language set forth in Paragraph 56 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

57. Seawright admits that he identified an initial key lender for Timber Fund II, but that loan was never made. Seawright denies the quoted language set forth in Paragraph 57 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

58. Seawright denies that the initial key lender for Timber Fund II was a Baker Donelson client. Seawright denies the quoted language set forth in Paragraph 58 to the extent the

same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

59. Seawright admits that he opened a bank account for Timber Fund II. Seawright denies the quoted language set forth in Paragraph 59 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

60. Seawright admits that Adams turned himself into authorities and admitted the fraud before Timber Fund II began operations. Seawright admits that he told others that they were victims of Adams's fraud, and he is. Seawright denies the quoted language set forth in Paragraph 60 to the extent the same is inconsistent with the documents, emails, and text messages produced by Seawright to the Receiver in the District Court Action. All allegations not expressly admitted are denied.

### **CAUSES OF ACTION**

61. The allegations in Paragraph 61 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, Seawright denies the allegations to the extent they are inconsistent with applicable law. Seawright affirmatively states that he is an "honest but unfortunate debtor." Seawright affirmatively states that he is not a "perpetrator of fraud" but is a "victim[] of fraud." All allegations not expressly admitted are denied.

### **COUNT I**

#### **NON-DISCHARGEABILITY UNDER SECTION 523(a)(2)(A) FOR DEBTS OBTAINED BY FALSE PRETENSES, FALSE REPRESENTATIONS, AND/OR ACTUAL FRAUD**

62. Seawright incorporates herein by reference each of his above responses to the Receiver's Complaint.

63. The allegations in Paragraph 63 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, Seawright denies the allegations to the extent they are inconsistent with Section 523(a)(2)(A) of the Bankruptcy Code. All allegations not expressly admitted are denied.

64. Denied.

65. Seawright admits that Madison Timber has been determined to be a Ponzi scheme. Seawright affirmatively states he never knew Adams was a fraud, he never knew Madison Timber was a Ponzi scheme, and he never acted with an unlawful purpose. All allegations not expressly admitted are denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied. Seawright affirmatively states that the allegations in Paragraph 69 relate to the fraudulent intent of Adams and Madison Timber, not Seawright. Seawright did not act with any such fraudulent intent, and he did not know about Adams's fraudulent scheme. The debt at issue is dischargeable under the Bankruptcy Code.

70. Seawright admits the Receiver has asserted against Seawright in the District Court Action the causes of action listed in Paragraph 70. Seawright affirmatively states that he is not liable under those causes of action asserted in the District Court Action. All allegations not expressly admitted are denied.

71. Denied.

72. Denied.

**COUNT II**

**NON-DISCHARGEABILITY UNDER SECTION 523(a)(4)  
FOR FRAUD OR DEFALCATION WHILE ACTING IN A FIDUCIARY CAPACITY**

73. Seawright incorporates herein by reference each of his above responses to the Receiver's Complaint.

74. The allegations in Paragraph 74 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, Seawright denies the allegations to the extent they are inconsistent with Section 523(a)(4) of the Bankruptcy Code. All allegations not expressly admitted are denied.

75. Denied.

76. The allegations in Paragraph 76 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required by Seawright to the allegations in Paragraph 76, he denies the same. Seawright denies all remaining allegations in Paragraph 76.

77. The allegations in Paragraph 77 attempt to state legal conclusions to which no response is required by Seawright. To the extent a response is required by Seawright to the allegations in Paragraph 77, he denies the same. Seawright denies all remaining allegations in Paragraph 77.

78. Seawright is without sufficient knowledge and information to admit or deny the allegations in the last sentence of Paragraph 78 regarding whether the "Receiver is the assignee of many of the[] investors' claims" and therefore denies the same. Notably, the Receiver did not attach any of the alleged assignments to the Complaint, nor has she produced them to Seawright. Seawright denies any such assignments give the Receiver standing to bring the claims asserted in this Complaint. Seawright denies all remaining allegations in Paragraph 78.

79. Seawright admits the Receiver has asserted against Seawright in the District Court Action the causes of action listed in Paragraph 79. Seawright affirmatively states that he is not liable under those causes of action asserted in the District Court Action. All allegations not expressly admitted are denied.

80. Denied.

81. Denied.

### **COUNT III**

#### **NON-DISCHARGEABILITY UNDER SECTION 523(a)(6) FOR WILLFUL AND MALICIOUS INJURY BY THE DEBTOR TO ANOTHER ENTITY OR ITS PROPERTY**

82. Seawright incorporates herein by reference each of his above responses to the Receiver's Complaint.

83. The allegations in Paragraph 83 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, Seawright denies the allegations to the extent they are inconsistent with Section 523(a)(6) of the Bankruptcy Code. All allegations not expressly admitted are denied.

84. The allegations in Paragraph 84 attempt to state legal conclusions to which no response is required from Seawright. To the extent a response is required from Seawright, Seawright denies the allegations to the extent they are inconsistent with applicable law. All allegations not expressly admitted are denied.

85. Denied.

86. Denied.

87. Denied.

88. Denied.

89. Denied.

90. Denied.

Seawright denies the allegations contained in the unnumbered paragraph on page 24 of the Complaint beginning “WHEREFORE” and in each of its numbered subparagraphs.

Seawright denies that the Receiver is entitled to the relief requested or to any relief whatsoever from Seawright.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

The Receiver’s Complaint fails to state a claim against Seawright for which relief can be granted. Therefore, the Receiver’s claims against Seawright should be dismissed pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and Federal Rule of Bankruptcy Procedure 7012(b).

#### **SECOND AFFIRMATIVE DEFENSE**

The Receiver’s claims against Seawright are barred because the Receiver cannot pierce the limited liability veil of Alexander Seawright, LLC.

#### **THIRD AFFIRMATIVE DEFENSE**

The Receiver’s claims against Seawright are barred by the doctrine of *in pari delicto* and also by Mississippi’s wrongful conduct rule. The Receiver stands in the shoes of Adams and Madison Timber, the primary wrongdoers who controlled the Ponzi scheme that duped hundreds of people, including Seawright. Accordingly, the Receiver cannot seek damages or contribution from Seawright.

**FOURTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred because the Receiver lacks standing to pursue claims against Seawright, including but not limited to claims asserted on behalf of anyone other than Adams and Madison Timber.

**FIFTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred because he did not owe any legal duty to Adams or Madison Timber, and he did not breach any legal duty allegedly owing to Adams or Madison Timber.

**SIXTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred by the good faith value defense. Seawright operated at all times in good faith and under a belief that he was doing business with a legitimate, legal business and not a fraudulent scheme. Moreover, Seawright contributed in good faith significant amounts of time, money, services, and other value for which he was entitled to be compensated.

**SEVENTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred by the acts and omissions of Adams and Madison Timber; the acts and omissions of the representatives and agents of Adams and Madison Timber; and the acts and omissions of others for whom Seawright is not responsible. Seawright is not directly or proximately responsible for any damages that Adams and Madison Timber might have allegedly suffered. The Receiver's claims against Seawright are barred because Seawright complied at all times with all applicable standards of care.

**EIGHTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred by the doctrines of contributory negligence, comparative fault, waiver, estoppel, failure of consideration, fraud, illegality, release, payment, accord and satisfaction, assumption of the risk, unclean hands, and by the failure of Adams and Madison Timber to mitigate their damages.

**NINTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred because the Receiver failed to plead items of special damage and alleged fraud with sufficient particularity.

**TENTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred because the Receiver has not alleged, and the Receiver cannot show, that Seawright knew of Adams's fraud or that Madison Timber was a fraudulent scheme.

**ELEVENTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred for the reasons set forth in Seawright's Motion to Dismiss and Memorandum in Support of the same, as filed in this Court on April 30, 2020, in connection with this Answer.

**TWELFTH AFFIRMATIVE DEFENSE**

The Receiver's claims against Seawright are barred for the reasons set forth in Seawright's Motion to Dismiss and Memorandum in Support of the same filed in the District Court Action, 3:18-cv-00866-CWR-FKB, on December 20, 2019.

**THIRTEENTH AFFIRMATIVE DEFENSE**

As discovery has not been completed in this matter, Seawright affirmatively pleads all applicable defenses available under Rules 12(b) and 8(c) of the Federal Rules of Civil Procedure

as incorporated by Rules 7008 and 7012 of the Federal Rules of Bankruptcy Procedure, including but not limited to: insufficiency of process, insufficiency of service of process, failure to join a party under Rule 19, arbitration and award, assumption of the risk, coercion, duress, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, res judicata, collateral estoppel, business judgment rule, statute of frauds, statute of limitations, offset, contribution, waiver, indemnity, failure to give full and proper notice, release, payment, willful concealment of facts, unconscionability, unconstitutionality of punitive damages, and any other matter constituting an avoidance or affirmative defense.

#### **FOURTEENTH AFFIRMATIVE DEFENSE**

To the extent that the Receiver claims punitive damages from Seawright, those claims are barred: (a) By the Eighth Amendment to the United States Constitution and Section 28 of the Mississippi Constitution; (b) By the Fifth and Fourteenth Amendments to the United States Constitution prohibiting substantive and procedural due process violations; as well as by Section 14 of the Mississippi Constitution; (c) By the Fourteenth Amendment to the United States Constitution guaranteeing equal protection under the laws; (d) By the Fourth, Fifth, Sixth and Eighth Amendments to the United States Constitution and Sections 14, 17, 26, and 28 of the Mississippi Constitution to the extent such sanctions are attempted to be imposed without requiring the burden of proof to be beyond a reasonable doubt; (e) By the provisions of Miss. Code Ann. § 11-1-65; and (f) By the holdings of United States Supreme Court in *BMW v. Gore*, 517 U.S. 559 (1996), *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001), and *State Farm v. Campbell*, 538 U.S. 408 (2003). Moreover, the Receiver's Complaint fails to state a claim against Seawright upon which relief can be granted for punitive damages, the Receiver cannot prove the facts necessary under applicable law to substantiate an award of

punitive damages, and therefore Seawright affirmatively denies that he is liable to Adams and Madison Timber for punitive damages.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Seawright reserves the right to assert, and hereby gives notice that he intends to rely upon, any other defense that may become available or appear during discovery proceedings or otherwise in this action and hereby reserves the right to amend this responsive pleading to assert such defenses.

AND NOW, having fully answered each and every allegation of the Receiver's Complaint filed against him, Jon Darrell Seawright respectfully requests that this Court dismiss the Receiver's claims against him with prejudice, taxing all costs against the Receiver and awarding the Seawright his reasonable attorneys' fees and expenses incurred in defending this lawsuit. Seawright also request such other and further relief as this Court deems just and proper.

Dated: April 30, 2020.

Respectfully Submitted,  
**HOOD & BOLEN, PLLC**

By: /s/ R. Michael Bolen  
R. MICHAEL BOLEN  
MSB # 3615

HOOD & BOLEN, PLLC  
ATTORNEYS AT LAW  
3770 HWY. 80 WEST  
JACKSON, MISSISSIPPI 39209  
(601) 923-0788  
rmb@hoodbolen.com  
*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I, R. Michael Bolen, hereby certify that have this day, April 30, 2020, caused the foregoing pleading to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and registered participants.

/s/ R. Michael Bolen

R. Michael Bolen