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Attorneys for Plaintiffs and all those similarly situated

**FEDERAL DISTRICT COURT FOR THE
 CENTRAL DISTRICT OF CALIFORNIA**

18 JAMES REED and CAROLLYNN
 19 REED, et.al.,

Plaintiffs,

v.

22 RELIANT LIFE SHARES, LLC, a
 23 California Limited Liability Company,
 et al.,

Defendants.

Case No. 2:23-cv-08577-SB-AGR
 Related Case: 2:23-cv-00460-SB-AGR
 Judge: Hon. Stanley Blumenfeld
 Courtroom 6C

**DECLARATION OF THOMAS
 FOLEY IN SUPPORT OF MOTION
 TO BE APPOINTED INTERIM
 CLASS CO-COUNSEL**

Date: December 1, 2023
 Time: 8:30 am
 Dept.: 6C

25 GWENDALYNN DOUGLASS, et al.

Plaintiffs.

v.

27 RELIANT LIFE SHARES, et al.

Defendants

Complaint filed: August 17, 2023

Trial Date: None

1 I, Thomas G. Foley, Jr. state and declare that:

2 1. I am an attorney licensed to practice law in the State of California, a
3 founding partner of Foley Bezek Behle & Curtis, LLP (“FBBC”), and have personal
4 knowledge the facts set forth in this Declaration in support of Thomas G. Foley, Jr.
5 and Richard Donahoo to be appointed as Interim Co-Class Counsel pursuant to Rule
6 23 (g)(3), except as to those matters which are based on information and belief, and
7 as to those matters, I believe them to be true. FBBC and my co-counsel Richard E.
8 Donahoo of Donahoo & Associates, PC (“D&A”), jointly represent Class
9 Representatives James Reed andCarolynn Reed and the putative class in this case
10 against Reliant Life Shares, et al.

11 **Background and Experience**

12 2. I graduated from the University of Notre Dame Law School in 1975,
13 where I was an Assistant Editor of the Notre Dame Law Review. I am a licensed
14 attorney and have been a member of the California Bar since 1975. I am also
15 admitted to practice before the following courts: the U.S. Supreme Court; the U.S.
16 Court of Appeals, Ninth Circuit; the U.S. District Courts for the Northern, Central,
17 Eastern and Southern Districts of California; and the U.S. Tax Court.

18 3. My practice has primarily involved business litigation. I have lectured
19 on litigation at seminars sponsored by the American Bar Association, the
20 California Continuing Education of the Bar, the American Trial Lawyers
21 Association, and the Continuing Legal Education Institute in New York City. I
22 have tried in excess of ten jury trials in both state and federal district courts.

23 4. I have been rated as “AV” by Martindale Hubble for more than three
24 decades.

25 5. I have experience in prosecuting and defending complex cases,
26 including class actions. As co-counsel with Richard Donahoo we have been
27 appointed as class counsel in four certified class actions, two of which were in
28 federal district courts.

1 6. Mr. Donahoo and I as co-lead class counsel have recent experience in
2 successfully prosecuting and settling a class action case involving a failed life
3 settlement company which became a Ponzi scheme presided over by Judge
4 Lawrence Riff sitting in Department 7 of the Complex Litigation Division of the
5 Los Angeles Superior, *Konstantine Shechter et al. v. Pacific West Capital Group,*
6 *Inc, et al.*, Case No. BC621512. In *Shechter* there were 1,597 class members who
7 invested in life settlements which had insufficient “reserves” to pay premiums on
8 insurance policies held by Defendant Mills Potoczak & Company, Inc. (“MPC”) as
9 trustee of the Pacific West Capital Group Trust (“PWCG Trust”). When the
10 reserves were exhausted to pay premiums on existing policies held in the PWCG
11 Trust, funds from new investors were used to pay premium payments on life
12 insurance policies which were in danger of lapsing in the PWCG Trust, which is
13 the hallmark of a Ponzi scheme.

14 7. The Securities & Exchange Commission (“SEC”) filed an action with
15 the United States District Court for the Central District of California against
16 PWCG. (Case No.2:15-cv-02563-FMO-FFM, Dkt.1.) At the request of the SEC,
17 the District Court appointed Receiver Thomas Hebrank as the successor trustee for
18 the PWCG Trust. (Dkt. 145)

19 8. Receiver Hebrank filed a Complaint against MPC in its capacity as
20 the former trustee of the PWCG Trust in the U.S. District Court - Central District
21 of California, Case No. 2:20-cv-8097 DDP-MAA. Class Counsel in *Shechter*
22 entered into a Joint Prosecution Agreement with Receiver Hebrank so that, inter
23 alia, we could coordinate discovery and jointly negotiate a settlement with
24 Defendant MPC. A joint policy limits demand was made on behalf of the putative
25 class and the Receiver to the primary and excess insurers which insured Defendant
26 MPC in its capacity as trustee of the PWCG Trust.

27 9. Class Counsel in *Shechter* together with the Receiver’s counsel
28 negotiated a \$9,750,000 class action settlement with defendant MPC which was

1 approved by both Judge Riff in the *Shechter* case on August 30, 2023, and
2 approved by Judge Pregerson in the Receiver's action in the Federal District Court
3 on October 16, 2023 (Dkt. 586)

4 10. In *Shechter* Class Counsel developed the legal theories against
5 Defendant MPC in its capacity as trustee of the PWCG Trust. The investors in
6 PWCG Life Settlements were beneficiaries of the PWCG Trust. The investors in
7 trusts established by Reliant are beneficiaries of those trusts.

8 11. It took decades of experience negotiating with insurance companies to
9 successfully negotiate with MPC's three insurance carriers which all initially
10 disclaimed coverage.

11 12. Class Counsel in *Shechter* jointly advanced more than \$50,000.00 in
12 costs and retained attorneys who specialized in complex insurance coverage
13 disputes to benefit the Class. It is not uncommon for FBBC to advance hundreds of
14 thousands of dollars in prosecuting class action lawsuits on a contingency fee
15 basis.

16 13. It took coordination between Receiver Hebrank and Class Counsel in
17 *Shechter* to accomplish a settlement on behalf of approximately 1,597 investors
18 which resulted in funds that were distributed to defrauded investors who were
19 beneficiaries of the PWCG Trust.

20 14. There were only three objectors and one opt-out in the *Shechter* Class
21 Action settlement, which is less than 1% of the certified class. Judge Riff found in
22 his Final Order approving the settlement in *Shechter* that the three objections were
23 without merit.

24 15. Mr. Donahoo and I will bring that same experience, tenacity and
25 financial resources to bear in representing the putative class in the consolidated
26 *Reed* action. We will endeavor to work cooperatively with State Court Receiver
27 Conway to streamline and expedite the litigation for the benefit of the putative
28 class. We have engaged experts in the *Reed* cases with experience in life

1 settlement actions.

2 16. There are several other individual actions filed against Reliant
3 pending in the Los Angeles Superior Court, including *Pullman v. Reliant Life*
4 *Shares*, LASC Case No. 23STCV20137; *Perry v. Reliant Life Shares, LLC*, LASC
5 Case No. 23STCV10150; *Anselmo v. Reliant Life Shares, LLC*, LASC Case No.
6 LC103187; and *Esubstance Ltd v Reliant Life Shares, LLC*, LASC Case No.
7 19VECV01785. I am informed and believe that there may also be a complaint filed
8 against Reliant Life Shares in Riverside County Superior Court.

9 17. On December 5, 2022 Douglass was filed in the state court against
10 Reliant Life Shares, LLC and 26 other defendants, asserting twenty-four (24)
11 separate causes of action.

12 18. On December 6, 2022 *Baeza* was filed in state court on behalf of 20
13 individual plaintiffs with class action allegations. The *Baeza* Complaint named 33
14 defendants and included twenty-four (24) separate causes of action.

15 19. Among the defendants named in the *Baeza* Complaint were UMB
16 Bank N.A., Bank of Utah, and First Western Trust Bank. These three banks served
17 as trustees of a series of trusts (“Reliant Trusts”) established by Reliant. In
18 Reliant’s marketing brochures and website it informed potential investors that it
19 had established the Reliant Trusts as part of a “trust structure” to provide safety
20 and security and promoted the independent trustee structure.

21 20. If appointed as Interim Class Counsel, Mr. Donahoo and I will reach
22 out to the plaintiffs’ counsel in the other individual actions against Reliant to try to
23 coordinate strategy so that there are not inconsistent rulings by different judges
24 which could adversely affect the claims of the putative class pending in this Court.
25 By doing that we may also be able to preserve scarce judicial resources dealing
26 with backlogs of cases resulting from the COVID pandemic. Mr. Donahoo and I
27 have done that in other class action cases in which we were appointed either
28 putative class counsel or class counsel.

1 21. The following are other certified class actions in which I have been
2 appointed class counsel or co-lead class counsel.

3 • *In Re Structured Settlement Litigation*, LASC Case No. BC 244111 (a
4 national class action involving a Ponzi scheme assigned to Judge Peter Lichtman in
5 the Complex Litigation Division of the LASC, which resulted in settlements of
6 \$124 million paid by, *inter alia*, Bankers Trust Company, Merrill Lynch, and
7 Wells Fargo Bank);

8 • *Internal Revenue Service (“IRS”) §1031 Tax Deferred Exchange*
9 *Litigation*, Federal District Court of Nevada, Case No. 2:07-cv-1394 (a national
10 class action involving a Ponzi scheme which resulted in settlements in excess of
11 \$98 million paid by, *inter alia*, Union Bank of Switzerland and Smith Barney &
12 Company);

13 • *Hunter, et al., v. Okun, et al.*, Federal District Court for the Northern
14 District of California, Case No. 09-cv-02079JW (RSx), a national class action
15 involving a Ponzi scheme which settled for approximately \$98 million.

16 • *Dana Denison, et al. v. Salvation Army*, Los Angeles Superior Court
17 Case No. BC368827, a \$12,000,000.00 settlement of a wage and hour class action.
18 Mr. Donahoo and I were appointed as co-lead class counsel in the *Denison* case.

19 • *Beauperthuy, et al., v. 24 Hour Fitness USA, Inc., et al.*, Federal
20 District Court for the Northern District of California, Case No. C 06 0715 SC (a
21 national wage and hour class action under the Fair Labor Standards Act (“FLSA”),
22 which settled for \$18,800,000. Mr. Donahoo and I were appointed as co-lead
23 counsel by Judge Samuel Conti when he conditionally certified the case.

24 • *Bostick, et al., vs. Herbalife, Inc., et al.*, Federal District Court for the
25 Central District of California, Case No. 2:13-cv-02488-BRO-RZ, a case in which it
26 was alleged that Herbalife was a pyramid scheme, which settled for
27 \$17,500,000.00;

28

1 • *Schulein, et al., vs. Petroleum Development Corporation, et al.*,
2 Federal District Court for the Central District of California, Case No. SACV11-
3 1891-AG-ANx, a case under the Securities and Exchange Act of 1933, which
4 settled for \$37,500,000.00.

5 • *Ramirez v. MetLife Insurance Company*, Los Angeles Superior Court
6 Case No. BC576608. This case started in the Complex Litigation Division of the
7 Los Angeles Superior Court as a putative class action. After class certification was
8 denied, together with Richard E. Donahoo as my co-lead counsel, we tried as a
9 “bellwether” case on behalf of Christine Ramirez, a former putative class member,
10 before Judge Kenneth Freeman in the Complex Litigation Department. After an
11 eight (8) week jury trial a verdict was returned against MetLife for \$239,890.36 in
12 compensatory damages and \$15 Million in punitive damages. Subsequently the
13 *Ramirez* case settled while in the appellate process in a confidential settlement
14 agreement with MetLife which settled the claims of all putative class members
15 with funds paid by MetLife which was administered as a class settlement for all
16 members of the former putative class which was not certified.

17 • *Blenkinsop et al. v. Vegas Grand, et al.* Federal District Court, District
18 of Nevada, Las Vegas Division, Case No. 2:05-cv-714 BES-RJJ. In this certified
19 class action Mr. Donahoo and myself as Class Counsel were able to get competing
20 class actions and individual actions filed in state courts to participate in the class
21 action settlement that we negotiated with the defendants. Judge Sandoval
22 commented at the final approval hearing on the class action settlement on the
23 quality on the legal work of Mr. Donahoo and me:

24 “*All right.* May I – at this time I’d like to complement all counsel
25 in this case. I’m credibly impressed with the quality of the
26 advocacy and the – and the pleadings in this matter and the
27 knowledge of the case so it certainly made it clearer for me to
28 consider all these different issues.... I find that class counsel

1 possesses the necessary experience and skills to resolve this
2 matter. The discovery in this matter was extensive and tailored”
3 (*Transcript of 11/17/2006 Final Approval Hearing, Pages 42-43,*
4 Exhibit A to this Declaration)

5 • *In Re Coordination Proceeding West Coast Arborist Wage and Hour*
6 *Class Action*, Case No. BC504178. Mr. Donahoo and I as Class Counsel
7 represented hourly wage employees in this certified class action overseen by Judge
8 John Shepard Wiley of the Complex Litigation Division of the Los Angeles
9 Superior Court.

10 • I am currently prosecuting a putative class action in the Santa Barbara
11 Superior Court, *Dennis v. Essex Capital, Inc., et al.*, Case No. 18-cv-03317.
12 Recently a Receiver appointed at the request of the SEC by the United States
13 District Court for the Central District of California in *SEC v. Essex Capital*, Case
14 No. 2:18-cv-05008 FMO-AFM, retained me and my firm on a contingency basis to
15 represent the Receiver on behalf of the Receivership in pursuing claims against
16 third parties. I have experience in both representing and working collaboratively
17 with Receivers to obtain favorable outcomes for investors defrauded in Ponzi
18 schemes.

19 I declare under penalty of perjury under the laws of the State of California that
20 the foregoing is true and correct. Executed this 10th day of November, 2023 at Santa
21 Barbara, California.

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23 */s/ Thomas G. Foley, Jr.*

24 Thomas G Foley, Jr.
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C.D. Cal. L.R. 5-4.3.4(a)(2)(i) Certificate

This is a document with multiple signatories, all of whom are registered CM/ECF filers. I certify that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

By: /s/ Richard E. Donahoo
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James Reed, et al. v. Reliant Life Share, LLC, et al.
USDC – Central District –Case No. 2:23-cv-08577-SB-AGR

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 440 West First Street, Suite 101, Tustin, CA 90720

On **November 10, 2023**, I served the foregoing document(s) described as:

DECLARATION OF THOMAS FOLEY IN SUPPORT OF MOTION FOR APPOINTMENT OF INTERIM CLASS COUNSEL

() BY MAIL - As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(X) BY E-MAIL – I caused a true copy of the foregoing document(s) to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address shown below. Each transmission was reported as complete and without error to the following email addresses:

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(X) FEDERAL - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

/s/ Richard E. Donahoo