

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHEVRON CORPORATION,	X
	:
Plaintiff,	:
	:
v.	:
	:
STEVEN DONZIGER, et al.,	:
	:
Defendants.	:
	X

11 Civ. 0691 (LAK)

**DECLARATION OF JOHN A. SLAVEK IN SUPPORT OF
CHEVRON CORPORATION’S
MOTION TO HOLD STEVEN DONZIGER IN CONTEMPT OF COURT
FOR HIS FAILURE TO COMPLY WITH THE RICO AND DEFAULT JUDGMENTS
AND THE APRIL 16, 2018 RESTRAINING NOTICE**

I, JOHN A. SLAVEK, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and correct:

Background

1. I am a Managing Director of Business Intelligence and Investigations at Kroll. I have been a Certified Public Accountant for approximately 22 years. I make this declaration in support of Chevron Corporation’s (“Chevron”) Motion to Hold Steven Donziger in Contempt of Court for His Failure to Comply with the Rico and Default Judgments and the April 16, 2018 Restraining Notice.

2. Since joining Kroll in 1998, I have assisted clients in assessing a wide range of finance and accounting issues, including corporate fraud, embezzlement, business income losses, bankruptcy, contractual disputes, and internal control evaluation. I have testified in judicial proceedings on numerous issues involving fraudulent financial reporting, improper accounting, lost profits, piercing the corporate veil, and violations of a non-compete agreement.

3. My previous accounting experience includes working for four years as a forensic financial investigator and auditor at KPMG. As an auditor, my engagements included various financial institutions, healthcare entities, manufacturers, retailers, and distributors. I also previously worked as the Manager of Financial Reporting and Analysis for Admiral Insurance, a property and casualty insurance company.

4. I provided a Declaration of John Slavek in Support of Chevron Corporation's Supplemental Brief Regarding the Contempt Implications of Donziger's Retention Agreements and Other Agreements Among Entities with Interests in the Ecuadorian Judgment on July 24, 2018. Since providing that declaration, I have received and reviewed an extensive amount of additional source materials.

Documents Reviewed and Relied Upon and Donziger-Related Bank Accounts and Investors Identified

5. Document productions from eight different sources were reviewed and relied upon throughout the course of these analyses, as shown below.

#	Source	Bates # Prefix
1	TD Bank	TD BANK 000...
2	Chase Bank	CHASEPJD000... and DONZ00...
3	Josh Rizack	JRIZACK000...
4	Mary Katherine Sullivan	MKS0000...
5	American Express	AMEX000...
6	JV Merkensteijn	JVM00...
7	BBVA Compass	BBVA Compass-000
8	Bank of America	BANA_ 0...

The transcript of June 27, 2018 deposition of Josh Rizack was also reviewed.

6. **Donziger Bank Accounts:** During the course of these analyses, we identified a total of 16 bank accounts held in the name of Steven Donziger (“Donziger”) or his law firm, Donziger and Associates PLLC. At Chase, there were seven accounts identified and at TD Bank there were eight accounts identified (the “Donziger TD Bank Accounts”). Donziger also had an account at BBVA Compass Bank in Jacksonville, Florida. A list of these accounts, last known opened or closed status, and first and last activity dates is attached here as Exhibit 1. I reviewed Donziger’s June 15, 2018 discovery response in which he states: “My bank accounts are as follows: TD Bank x8174; TD Premier Checking x8132; TD Relationship Checking x3420; TD Business Premier Checking x8783; and TD Select Savings x9857. A printout from the TD Bank website reflecting the current status of these accounts is attached. I hereby attest that these are the only bank accounts I presently use and the only bank accounts I have used since March 4, 2014.”¹ Based on my analyses of the documents produced by TD Bank and BBVA Compass, this last statement is false.

7. During this time frame, Donziger had at least four other bank accounts, including the following:

- TD Bank Personal Relationship Savings **2388 which had a \$4,513.95 balance on March 4, 2014 and a balance of \$4,515.43 when it was closed on July 9, 2014.
- TD Bank Personal Relationship Checking **2265 which had a \$56,602.63 balance on March 4, 2014. This account had its highest ending monthly balance of \$421,831.98 on September 11, 2014 before being closed on December 27, 2016.

¹ The underlined portion of the last sentence was underlined on Donziger’s June 15, 2018 discovery response.

- TD Bank Personal Relationship Savings **6418 which was opened with deposits totaling \$312,236.41 on June 25, 2015. This account had its highest ending monthly balance of \$312,765.55 on October 31, 2015 before being closed on April 23, 2018.
- BBVA Compass account **9997 which had a \$15,957.87 balance on March 4, 2014 and a \$115,306.41 balance that was transferred to Donziger's TD Personal Savings **6418 when this BBVA Compass account was closed on June 25, 2015.

8. Two of the accounts that Donziger failed to disclose in his discovery response historically have contained the large majority of the total funds in his bank accounts, whereas the accounts he did disclose historically have contained relatively little of the total funds in his accounts. Personal Savings Account **6418 and Personal Checking Account **2265 had the two highest monthly average balances at \$134,359.86 and \$110,695.03, respectively, for the months they were open during the period from December 2012 through June 2018. Business Checking Account **8174 had the next highest monthly average at \$96,697.51; however, it was only opened for two months during the period (May and June 2018) and had one large deposit of \$342,045.16 that accounted for this average. The other five accounts had average monthly balances ranging from \$13,646.17 to \$52,629.52 for the months they were open during the period from December 2012 through June 2018.

9. In addition, in or about late 2017, Donziger entered into a business relationship with Streamline Family Office Inc. ("Streamline"). [MKS0001264] Based on documentation reviewed in this matter, Mary Katherine Sullivan is the President of Streamline. [MKS-0006383] On or about December 22, 2017, Sullivan opened a Business Advantage Checking account at the Bank of America under the name "Streamline Family Office Inc. DBA CWP ASSOCIATES" (the "CWP Account") with an initial deposit of \$100.00. [MKS-0006473-475] I have assumed for

purposes of this analysis that this account was also controlled by Donziger. For the purposes of these analyses, I thus refer to the following accounts as the “Donziger Bank Accounts”:

TD Bank Accounts	Chase Bank Accounts
Personal Relationship Savings **2388	Personal Select Checking w/Interest **5365
Personal Relationship Checking **2265	Business Classic Checking **0218
Personal Relationship Savings **6418	Business IOLTA Account **9822
Personal Relationship Checking **3420	Personal Private Client Checking **5678
Personal Select Savings **9857	Business Classic w/Interest **2758
Personal Premier Checking **8132	Business IOLTA Trust Account 2 **0989
Business Premier Checking **8783	Personal Private Client Savings **9890
Business Convenience Plus Checking **8174	
Other Accounts	
Steven Donziger; P Campbell Ford, BBVA Compass Bank Business Advantage Checking ***9158	
Streamline Family Office Inc. DBA CWP Associates, Bank of America Built-to-Order Checking ***9997	

Donziger may also have other accounts of which we are unaware which are, of course, excluded from these analyses.

10. **Post RICO Investing Agreements Reviewed:** In connection with these analyses, I reviewed 12 partial and fully executed agreements dated between January 22, 2016 and January 2, 2018 which, per their terms, provided investors with an interest in the Ecuadorian judgment in exchange for a cash investment. Attached hereto as Exhibit 2 is a schedule of these investor agreements with the investor, date of the agreement, amount invested, and equity interest received per the terms of the agreements indicated. I have also reviewed documents indicating that one of these investments, the January 2, 2018 Agreement signed only by Glenn Krevlin [MKS-0000594-595] may have been a conversion of loans previously made to Donziger to equity interests in the Ecuadorian judgment [MKS-0001769], but this conversion is not reflected on the face of the investment agreements and I have not been provided with any related loan documents. For the

purposes of these analyses, the investors shown on the investment agreements summarized on Exhibit 2 are referred to here as “Investors.”

Questions Presented

11. I was asked by counsel for Chevron to provide the following analyses and answer the following questions:

- Provide an analysis of all Investor payments transferred into the Donziger Bank Accounts after January 1, 2016.
- What is the total amount of Investor transfers to Donziger Bank Accounts after January 1, 2016?
- What percentage of funds received in Donziger Bank Accounts after January 1, 2016 came from Investors?
- What is the total amount of Investor transfers to Donziger Bank Accounts since August 2004, and what are the sources of those transfers?
- Provide an analysis to determine how the Investor payments were maintained, transferred, and disbursed by and between all Donziger Bank Accounts since the entry of the RICO judgment.
- Provide an analysis of Donziger’s uses of Investor monies since the entry of the RICO judgment. Provide an analysis of whether and to what extent Investor monies were commingled with Donziger’s personal funds by Donziger.
- Do the documents produced by Joshua Rizack accurately depict the funds received and disbursed via the Donziger Bank Accounts and do any of his analyses conform with commonly accepted accounting practices?

**Analyses of Deposits into and Transfers between the Donziger Bank Accounts
Description of Attached Analyses**

12. I have prepared five analyses, Exhibits 3-A and 3-B, and 4-A through 4-C, in order to analyze the deposits into and transfers between the various Donziger Bank Accounts beginning with the initial post-RICO Investor payment in January 2016. Since January 1, 2016 and through June 30, 2018 there was a total of \$1,315,973.31 in deposits from external sources into the Donziger Bank Accounts. As shown on Exhibit 3-A, George Waters deposited \$150,000 directly into Donziger's accounts in three separate deposits.

13. Deposits into the Donziger Bank Accounts also came from seven additional Investors. However, these Investors directly deposited funds in accounts that are not apparently within Donziger's control—including accounts owned by Lenczner Slaght Royce Smith Griffin LLP ("Lenczner Slaght")—and then the owners of those accounts transferred the funds to Donziger.

14. As shown on Exhibit 2, five Investors (Glenn Krevlin, Cliff Eisler, WDIS Finance LLC/John van Merkensteijn, Wellbeck Partners/Jay L. Goldstein, and Indigenous People Limited/Ian Watson) signed investment agreements that included Lenczner Slaght as a party or party and escrow agent to the agreement. These agreements totaled \$1,417,500.00 after the deduction of certain fees. Related wire transfers from Lenczner Slaght totaling \$625,940.00 were deposited into Donziger's TD Business Account **8783 between May 2016 and February 2017 (Refer to Exhibits 2 and 3-A). The balance of \$791,500.00 remained with Lenczner Slaght.²

15. Donziger also received Investor monies via the CWP Account. The only three external deposits into the CWP Account came from three Investors for a total of \$750,000, as follows:

² The \$60.00 difference is due to the \$10.00 wire transfer fees for each of the six deposits into Donziger's account.

- a. Antony Abbiati \$250,000.00 on January 2, 2018;
- b. James McCaffrey \$250,000.00 on January 5, 2018; and
- c. Glenn J. Krevlin \$250,000.00 on January 18, 2018.

16. A portion of this \$750,000.00 total was used to pay for Donziger-related expenses out of the CWP Account (as shown on Exhibit 6). Excluding Donziger, who received \$467,045.16 of this \$750,000.00 in his accounts, the highest total paid out of the CWP Account was the \$106,581.71 to Peter Grant. The next two highest totals were \$41,151.66 to the University of Calgary for “the full contract amount for the Banff center” for a November 2018 “Indigenous Solutions for Environmental Catastrophe” conference [MKS-0001549] (where Donziger and Aaron Marr Page are scheduled to speak) and \$23,904.19 in payments on Donziger’s American Express cards. As shown on Exhibit 8, seven out of the remaining thirteen known payees in the CWP Account also received payments out of Donziger’s TD Bank Accounts, including Anton Tabuns, Forum Nobis, and the Frente De Defensa De La Amazonia. In addition, the previously noted \$467,045.16 out of this \$750,000.00 was transferred to the Donziger Bank Accounts in four transactions.

17. Three of the four transactions transferring funds from CWP to Donziger were direct transfers from the CWP Account to Donziger TD accounts of (1) \$25,000.00 on January 30, 2018, (2) \$25,000.00 on February 2, 2018, and (3) \$75,000.00 on March 13, 2018. A fourth deposit for \$342,045.16 was received into Donziger’s personal account **8132 on May 8, 2018.

18. However, this last amount was not transferred directly from the CWP Account, but rather, it was first routed through the firm Forum Nobis PLLC (“Forum Nobis”) and its Managing Attorney, Aaron Marr Page. The transaction was initiated with two cashier’s checks from the CWP Account which totaled \$342,045.16. Both checks were dated May 3, 2018 and included

directions to “Pay To The Order Of AARON MARR PAGE FBO FDA.” [See Exhibit MKS-0021203]

19. Five days later, on May 8, 2018, a wire transfer in the amount of \$342,045.16 from Forum Nobis was received in one of Donziger’s personal checking accounts (**8132) at TD Bank. As further explained below, two days later \$50,000.00 from those funds were wired transferred back to Forum Nobis from a Donziger account.

20. On May 10, 2018, Donziger opened a new business checking account at TD Bank (**8174). The opening deposit into this account was a transfer of the \$342,045.16 from his personal checking account (**8132). [See Exhibit TD BANK 0000659]

21. On that same date, May 10, 2018, Donziger transferred a total of \$210,000 out of this new checking account via the following three transactions [also on Exhibit TD BANK 0000659]:

- a. a \$50,000.00 wire transfer to Forum Nobis;
- b. a \$35,000.00 withdrawal transfer back to personal checking account (**8132); and
- c. a \$125,000.00 withdrawal transfer to another Donziger TD business checking account (**8783).

22. The total deposits of Investors’ funds into the Donziger TD Bank Accounts, directly and through Lenczner Slaght, CWP Associates, and Forum Nobis, equals \$1,242,985.16. As shown on Exhibit 3-A, this represents 94.5 percent of the total \$1,315,973.31 deposits into the Donziger TD Bank Accounts from external sources for the period from January 1, 2016 through June 30, 2018. Deposits into the Donziger TD Bank Accounts from other external sources other than investors during this two-and-a-half-year period totaled \$72,988.15.

23. The 13 Investor-related deposits into the Donziger Bank Accounts are shown in chronological order on Exhibit 3-A. As noted on this Exhibit, the first Investor payment, the \$50,000.00 from George R. Waters, was deposited into a Donziger personal checking account. The final Investor transaction on this Exhibit, the May 8, 2018 payment of \$342,045.16 from Forum Nobis, was also deposited into a Donziger personal checking account. The remaining 11 Investor and Investor-sourced payments were initially deposited into the Donziger & Associates, PLLC business account (**8783).

24. An additional schedule was prepared in order to quantify the total Investor payments to Donziger's accounts dating back to the initial payments from Kohn Swift & Graf in 2004.³ As shown on Exhibit 3-B, Donziger has received a total of more than \$9.4 million over 14 ½ years based on the available (though incomplete) bank records, with the highest annual totals occurring in 2010 (\$2,550,000.00) and 2007 (\$1,999,911.36). No known Investor deposits were made in 2014 or 2015. We have not had access to any bank accounts out of the U.S. and cannot confirm what other Donziger-controlled bank accounts may have existed during this period.

Commingling of Accounts

25. Although 11 of the Investor and Investor-sourced payments were initially deposited into law firm account (**8783), the amounts generally did not remain there long. I have prepared three analyses that show the transfers and related commingling of funds between various Donziger personal and business bank accounts at Exhibits 4-A, 4-B and 4-C. Each Exhibit shows a series of withdrawals from one of the Donziger Bank Accounts along with the corresponding deposit into another Donziger Bank Account.

³ In addition to Kohn Swift & Graf, the additional Investors included Magister Law, Russ DeLeon, Torvia, Patton Boggs, LLP, Olswang LLP (Woodsford), Orin Kramer, Michael Donziger, and Amazonia Recovery Limited.

26. The transfer history within the TD Bank Accounts beginning at January 1, 2016 is shown on Exhibit 4-A. Seven different Donziger TD Bank Accounts are shown on this Exhibit. The first five accounts in the column headings are personal checking and savings accounts; the last two are business checking accounts. This schedule also shows a beginning and average monthly balance for each account, along with a monthly combined total for all seven accounts.

27. A total of 32 transfers between accounts are shown on Exhibit 4-A, with 10 transfers between personal accounts, one transfer between the two business accounts, one transfer from a personal account to a business account, and 20 transfers from a law firm business account to a Donziger personal account. In total, more than \$1.2 million was transferred between the various accounts over the two-and-a-half years represented on this Exhibit. The net effect of this analysis shows that the law firm business accounts transferred \$510,000.00 to Donziger personal checking and savings accounts between May 13, 2016 and June 4, 2018. The analysis shows that funds from investors and personal funds were comingled in all seven accounts, and that funds from investors were never kept in a segregated account, but transferred to personal accounts on numerous occasions and used to pay personal expenses.

28. In order to determine if there is a potential relationship between the timing of the Investor deposits and the transfers, the relevant Investor deposits and four transfers from CWP Associates and Forum Nobis are also shown on Exhibit 4-A.

29. As previously noted, the \$50,000.00 Investor payment from George R. Waters was deposited into a Donziger personal checking account (**2265) January 25, 2016; this was never transferred to a law firm account.

30. The first Investor payment that is deposited directly into a law firm account (**8783) is the \$74,990.00 payment transferred via the Lenczner Slaght account that was received on May 10, 2016. As shown on Exhibit 4-A, \$70,000.00 (93.3 percent of \$74,990.00) is then

transferred from the law firm account to a Donziger personal checking account (**2265) three days later, on May 13, 2016.

31. Two months later the next Investor payment, \$104,990.00, again via the Lenczner Slaght account, is deposited directly into the same law firm account (**8783) on July 19, 2016. Again, three days later, on July 22, 2016, \$100,000.00 (95.2 percent of \$104,990.00) is transferred from the law firm account to a Donziger personal account (**6418). The \$335,000.00 transferred to Donziger's personal checking and savings accounts during the time frame of the Lenczner Slaght transactions represents 53.5 percent of the \$625,940.00 transferred to Donziger by Lenczner Slaght.

32. There were eight Investor payments totaling \$725,940.00 that were deposited into a law firm business account between January 1, 2016 and June 30, 2018. Exhibit 4-B shows the 20 transfers from the two law firm accounts to the personal accounts. As previously noted, a net amount of \$510,000.00 was transferred from a law firm account to a Donziger personal account during this two-and-a-half-year period. Exhibit 4-B also shows the two Investor deposits that went directly into a personal checking account, and one transfer that went from a personal to a law firm account (the \$342,045.16 payment from Forum Nobis that was transferred within two days).

33. The numerous transfers between accounts and the commingling of funds from investors and personal funds also occurred in the Donziger Chase Bank accounts prior to the RICO Judgment. As shown on Exhibit 4-C, there were 126 transfers between four business accounts (Law Firm, Ecuador Case, DeLeon IOLA, and IOLA Trust) and three personal accounts (one checking and two savings). In total, almost \$6 million was transferred between the various accounts in the less than three years represented on this Exhibit. The net effect of this analysis shows that the law firm and IOLA business accounts transferred \$2,543,024.85 to Donziger personal checking and savings accounts.

34. There were two additional transfers from Donziger law firm accounts to personal accounts. When Donziger was shutting down his Chase Bank accounts in late 2012 and early 2013, he transferred \$241,131.58 and \$24,970.00 from the closed Chase law firm account (**0218) into his personal checking and savings account at TD (**2265 and **2388). Based on TD Bank account opening records, these TD personal accounts were opened on December 3, 2012. The Chase law firm account was closed in early January 2013 and a TD business account (**8783) was not opened until May 7, 2013. Thus, it appears that Donziger operated his law firm without a business bank account for three months in early 2013.

35. The remaining funds in the Donziger Chase Bank accounts were used to fund the opening of two personal accounts at TD Bank. On December 3, 2012, the Donziger TD savings account (**2388) was opened with an initial deposit of \$419,027.71, which was comprised of three withdrawals on the same day from the Donziger Chase accounts, as follows:

- a. \$176,318.59 was withdrawn from the Donziger Personal Savings account (**9890), leaving the account with a zero balance;
- b. \$1,577.54 was withdrawn from the Donziger Personal Checking account (**5365), leaving the account with a zero balance; and
- c. \$241,131.58 was withdrawn from the Donziger Law Firm Checking account (**0218), leaving the account with a balance of \$24,970.00. As noted above, this amount would later be withdrawn on January 7, 2013 and deposited on January 25, 2013 into the Donziger TD Personal Checking account (**2265).

36. As shown on page 3 of Exhibit 4-C, a total of \$443,997.71 in funds, including \$266,101.58 from the law firm accounts, were withdrawn from the Donziger Chase accounts and used to fund the opening of the Donziger personal accounts at TD Bank.

Payments from the Commingled Donziger TD Bank Accounts

37. I have prepared three analyses that show summaries of the total payments to each recipient out of the various Donziger personal and business bank accounts at Exhibits 5-A through 5-C. Exhibit 5-A is for the period when the TD Bank accounts were opened in December 2012 through June 30, 2018. Exhibit 5-B covers the period from January 1, 2016 through June 30, 2018. Exhibit 5-C is a summary of the total payments to each recipient out of the various Donziger personal and business bank accounts for the period preceding the RICO Judgment, from December 2012 through March 4, 2014.

38. As shown on Exhibit 5-A, a total of \$3,110,556.89 was paid out of the Donziger Bank Accounts over the approximate five-and-a-half-year period from December 2012 through June 30, 2018. The totals by recipient (or payee) are shown in descending order on this Exhibit, with American Express, Laura Miller, and Wells Fargo Home Mortgage as the three payees with the largest totals, having been paid \$717,773.89, \$399,523.65 (\$135,000.00 directly from Donziger's law firm accounts), and \$320,795.69, respectively. This Exhibit also quantifies the distribution of payments that were made out of Donziger's personal accounts compared to his law firm business accounts. As shown on Exhibit 5-A, \$2,622,890.26 (or 84.3 percent) of the \$3,110,556.89 total was paid out of the personal checking and savings accounts, while \$487,666.63 was paid out of the two business accounts.

39. Only six of the 61 payees were paid solely out of the business accounts. These are: Forum Nobis, PLLC (\$50,000.00); Frente De Defensa De La Amazonia (\$38,320.00); Rex Weyler (\$10,900.97); Gross Law Attorney Trust (\$5,000.00); 3BI Media, LLC (\$4,600.00); and Ann Corbett (\$2,000.00).

40. The other 55 payees were either paid exclusively from the personal bank accounts or from both the personal and business accounts. These include Kecker & Van Nest (\$300,000.00)

and Friedman Rubin (\$150,000.00) whose payments came just from the personal accounts. Others include Deepak Gupta, who was paid \$100,000.00 from a personal account and another \$25,000.00 from a law firm account, and Aaron Page, who received seven payments totaling \$82,000.00 from Donziger's personal checking account and six payments totaling \$40,000.00 from the Donziger & Associates, PLLC business account.

41. Exhibit 5-B shows a similar pattern after January 1, 2016, although not quite as extreme. A total of \$1,343,028.57 was paid out of the Donziger TD Bank Accounts over the period from January 1, 2016 through June 30, 2018. This schedule also quantifies the distribution of payments that were made out of Donziger's personal accounts compared to his law firm business accounts at TD Bank. As shown on Exhibit 5-B, \$862,401.94 (or 64.2 percent) of the \$1,343,028.57 total was paid out of the personal checking and savings accounts, while \$480,626.63 was paid out of the two business accounts.

42. A third analysis was undertaken which revealed that very little was paid out of the business accounts during the stub period between the closing of the Chase law firm account in January 2013 and the March 4, 2014 RICO Judgment date. As shown on Exhibit 5-C, while there was a total of \$1,359,357.04 in payments during this period, only \$8,000.00 was paid out of the business accounts. This was comprised of two payments, one for \$5,000.00 to Gross Law Attorney Trust on August 1, 2013 and a second for \$3,000.00 to Anton Tabuns on August 2, 2013.

Payments on Behalf of Donziger from the CWP Associates Bank Account

43. As previously noted, \$750,000.00 in Investor moneys was initially deposited into the CWP Associates bank account and a total of \$467,045.16 out of this \$750,000.00 was transferred to the Donziger Bank Accounts. The use of the balance of \$282,954.84 is shown on Exhibit 6.

44. The recipients of the largest total payments from the CWP Associates account, excluding Donziger, were the Peter Grant Law Firm (\$106,581.71), the University of Calgary (\$41,151.66 as down payments for a Fall 2018 conference), American Express (\$23,904.19), and Anton Tabuns (\$20,000.00).

Donziger American Express and TD Bank Credit Card Charges and Payments

45. I have prepared two analyses that show summaries of the total payments to each recipient from Donziger's American Express and TD Bank credit cards at Exhibits 7-A and 7-B. As with the Donziger TD Bank Account transfers and payments, the pattern of these credit card payments confirms the commingling of funds. As shown, credit card payments are made both from personal and law firm accounts without any discernible distinction regarding the nature of the underlying charges.

46. As shown on Exhibit 7-A, there were total charges of \$189,119.19 and \$186,914.10 on Donziger's American Express and TD Bank credit cards, respectively, over the two-and-a-half-year period from January 1, 2016 through June 30, 2018. The totals by recipient (or payee) are shown in descending order on this Exhibit, with American Airlines (\$21,958.86), Gym Precision (\$14,040.00), Avianca Ecuador (\$13,138.08), Delta Airlines (\$12,890.79), and 3BL Media LLC (\$11,705.00) as the five payees with the largest totals, having been paid more than \$10,000.00 each. Grouping the payments by category shows that a total of \$82,117.87 was spent on Airfare, with the next four largest categories being Hotels (\$59,230.80), Fitness/Exercise Equipment (\$20,380.00), Meals (\$18,168.86), and Internet/Phone (\$14,279.61).

47. Exhibit 7-B shows the same American Express and TD Bank credit card charges broken out by total per month from January 1, 2016 through June 30, 2018. It also shows related payments on these charges out of the Donziger personal and business and CWP bank accounts. Credit card spending in 2016 was at a higher monthly average than in the following two years with

an average of \$15,592.09 per month versus \$12,902.38 per month to date in 2018 and \$9,292.83 per month in 2017.

Disposition of the Investor Moneys Deposited into the Donziger Accounts

48. A reconciliation of the Investor payments to and through the Donziger Bank Accounts is shown below.

<u>Investor Payments to Donziger</u>		<u>Funds Paid Indirectly to Donziger through CWP Associates were disbursed as follows:</u>	
Paid Directly to Donziger	\$ 150,000.00	Direct Transfers to Donziger from CWP	\$ 125,000.00
Paid Indirectly through Lenczner	625,940.00	To Donziger via Forum Nobis	342,045.16
Paid Indirectly through CWP Associates	<u>750,000.00</u>	CWP Payments on Behalf of Donziger	<u>282,954.84</u>
Total Investor Payments to Donziger	<u>\$ 1,525,940.00</u>	Paid Indirectly to Donziger	<u>\$ 750,000.00</u>

Reconciliation of the Investor Payments to Donziger

Direct from Investors to Donziger Accounts	\$ 150,000.00
Direct Transfers to Donziger from Lenczner	625,940.00
Direct Transfers to Donziger from CWP	125,000.00
To Donziger via Forum Nobis	<u>342,045.16</u>
Total Investor Amounts to Donziger Accounts	<u>\$ 1,242,985.16</u>
CWP Payments on Behalf of Donziger	<u>282,954.84</u>
Total Investor Payments to or on Behalf of Donziger	<u>\$ 1,525,940.00</u>

49. As previously noted, a total of \$1,242,985.16 in Investor moneys was deposited into the Donziger Bank Accounts. The combined opening balances of the Donziger TD Bank Accounts as of January 1, 2016 was \$277,152.34. Based on the calculation below, it appears that the combined ending balances as of June 30, 2018 were approximately \$250,097.08, as many of these statements are partially redacted. This also agrees with our estimated ending balances on Exhibit 4-A.

Reconciliation of the Beginning and Ending Balances, Investor and Other Deposits, and Total Spend

Beginning Balances in Three Donziger TD Accounts at 1/1/16	\$ 277,152.34	
Total Investor Amounts to Donziger Accounts Post-1/1/16	1,242,985.16	
Total Other External Deposits to Donziger Accounts Post-1/1/16	<u>72,988.15</u>	
Total Available Cash 1/1/16 - 6/30/18	<u>\$1,593,125.65</u>	
Less: Total 1/1/16 - 6/30/18 Spend per TD Bank Analysis	<u>(1,343,028.57)</u>	84.3%
Estimated Ending Balances in Five Donziger TD Accounts at 6/30/18	<u>\$ 250,097.08</u>	

50. As shown on Exhibit 8, I was able to trace the spend for approximately \$1,012,065.54, or 81.4 percent of the \$1,242,985.16 in Investor deposits into the Donziger TD Bank Accounts between January 2016 and June 2018. The tracing of Investor deposits was complicated by the commingling of money between multiple personal and business accounts. In addition, my analyses show that a portion of the \$342,045.16 Forum Nobis deposit on May 8, 2018 was likely included in the estimated \$250,097.08 ending balance for the TD bank accounts, as there was limited spending out of the relevant accounts after the May 8, 2018 deposit. As such, the analysis in Exhibit 8, which identifies the use of 81.4 percent of the Investor deposits, is conservative in relation to the Total Spend during the period at 84.3 percent of Total Available Cash, as noted above.

51. Our methodology and other assumptions for this analysis included the following:
- a. Current account balances at the time that Investor deposits and transfers were deposited into individual bank accounts were factored into our calculations. The funds were considered “spent” up until the point that a close approximation of these balances still remained, or another deposit or transfer was made into the account.
 - b. After another Investor deposit or related transfer was made into an individual account, the “spending” calculation process would begin again.
 - c. Money is fungible or interchangeable. However, as the Investor payments comprised 94.5 percent of the total deposits into Donziger’s TD bank accounts, I believe that our analyses capture a fairly accurate presentation of how the Investor funds were spent.
 - d. All of the moneys deposited into the CWP Associates bank account came from three Investors, except for an initial \$100.00 opening deposit. Given this fact, we

can be certain that all but \$100 in this account was spent as we have calculated and shown on Exhibit 6.

52. The three largest payees of the Donziger Bank Accounts were Laura Miller (\$297,000.00), TD Bank (\$160,021.89 primarily in TD credit card payments), and Peter Grant Law Group (\$106,581.71). In addition to the \$297,000.00 paid to Laura Miller, she incurred \$54,037.01 in American Express charges during 2016 that was also paid for out of the Donziger Bank Accounts. Payments from the Peter Grant Law Group came fully from the CWP account.

53. These analyses again demonstrate that the Investor moneys were commingled within both the business and personal Donziger Bank Accounts and were used without regard to maintaining accurate business records as 53.5 percent of the total \$1,012,065.54 in Investor deposits traced through the TD Bank accounts was spent out of the personal accounts. If the funds had been deposited and maintained in strictly business accounts (as they appear to have been in the CWP Account), the tracing exercise would have been much more straightforward.

Review of Josh Rizack Financial Records

54. I have analyzed the financial and accounting records prepared and/or maintained by Josh Rizack that were provided in the aforementioned Rizack production. Rizack ostensibly served as Donziger's personal bookkeeper and financial consultant and was apparently the person responsible for documenting and tracking how funds received and disbursed by Donziger were accounted for. The Rizack production consisted mostly of various Excel files and scanned PDF's. My review of these files identified numerous inconsistencies, poor record-keeping, and an apparent overall absence of compliance with even rudimentary accounting and bookkeeping principles. Below are examples of issues and errors identified during my analysis of the files in the Rizack production.

55. In a schedule titled “Historic Payments (\$)” (JRIZACK0000018), Rizack notes that Donziger received approximately \$4.8 million from July 2007 through January 2013. However, another schedule produced by Rizack differs completely. In the Excel file named “Final Steven Acct 2007-2016 (2.2.17)” and contained within an Excel worksheet titled “Summary 2007-2016”, Rizack shows that Donziger’s fees over the same period were approximately \$2.4 million, a discrepancy of \$2.4 million. Both schedules fail to adequately explain how Rizack was able to arrive at the \$4.8 and \$2.4 million amounts and why these amounts were different.

56. All of Rizack’s schedules were prepared with Microsoft Excel; however, he appeared to only have a basic understanding of the program (at best), as his files and worksheets had numerous errors, inconsistencies, and inefficiencies.

57. One such example is included in the previously referenced “Final Steven Acct 2007-2016 (2.2.17).xlsx” file. One of the worksheets in this file is titled “Atty Checking” which appears to list all activity for multiple Donziger Chase Law Firm accounts from March 2007 to July 2011. However, there is no indication which account any given line item is linked to.

58. At the top right of this schedule (in Cell I5) is a summary of credits and debits for 2010. The formula used to total the credits and debits for 2010 is a SUM across the range (C153:C290). The range includes all the line items for 2010, but also the subtotal for 2010, causing the 2010 total to be 4,600,306.00 rather than the actual sum of 2,300,153.00 for the line items recorded. (See Exhibit screen shots from “Final Steven Acct 2007-2016 (2.2.17)”, pages 1 and 2.)

59. The formula used to total the credits and debits for 2011 is also a SUM across a specified range. The range specified here, however, omits the first line item and the last two line items, causing the totals to be lower than if all line items were accurately included.

60. In general terms, Rizack’s files lacked consistency and organization. Financial records appeared to be prepared for ad hoc purposes and there were no uniform year-over-year

analyses. There was also a clear absence of supporting documentation or workpapers maintained in an organized and “easy to follow” format. In addition, Rizack did not follow any commonly accepted accounting methodology in either creating or verifying the information on his spreadsheets.

61. Based on my review and analysis of the documents produced by Josh Rizack and findings discussed above, said documents should not be relied upon for any financial or accounting purpose, including but not limited to presenting an accurate depiction of case funds received and/or disbursed by Donziger.

Restraining Notice

62. I have been provided with a copy of the Restraining Notice, which Chevron has represented to me was served on Donziger on April 16, 2018. According to the Notice, Donziger is prohibited from “mak[ing] or suffer[ing] any sale, assignment, transfer or interference with any PROPERTY in which [he has] an interest” From my analysis of the relevant accounts, since the date of service, April 16, 2018, Donziger has continued to transfer funds from four of his five open TD Bank accounts and the CWP Account. The fifth TD Bank account is Personal Savings account **9857. The relevant statement for this account covers the period from April 1, 2018 through June 30, 2018 [TD BANK 0000010] and shows a beginning balance of \$10,163.51; however, except for two interest payments received and two maintenance fees paid, the rest of the statement, including the ending balance, is redacted.

Comparison of Known Investment Commitments and Known Investments at the Date of the RICO Judgment and as of September 26, 2018

63. As part of my analysis and quantification of Investor payments transferred into the Donziger Bank Accounts, I also reviewed investment agreements, related records, and deposits of Investor funds for the periods before the RICO Judgment as well as those that became known after

March 4, 2014. As shown on Exhibit 9, Known Investment Commitments increased by \$6,829,281 from \$32,360,647 at March 4, 2014 to \$39,189,928 as of September 26, 2018. This increase is due to the subsequent discovery of commitments made prior to the RICO Judgment that were still unknown at March 4, 2014, as well as commitments made by Investors after March 4, 2014.

64. The Known Investment increased by \$3,081,000 from \$15,997,962 at March 4, 2014 to \$19,078,962 as of September 26, 2018. This \$3,081,000 increase is comprised of the \$2,402,000 in Investor funds deposited into the Lenczner Slaght, CWP Associates, and Donziger accounts between January 1, 2016 and January 18, 2018; and \$679,000 in payments made by Torvia, Amazonia Recovery Limited, Michael Donziger, and Woodsford prior to March 4, 2014 that were still unknown at the time of the RICO Judgment.

Executed on this 30th day of September, 2018 at New York, New York.



John A. Slavek