

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

MICHAEL S. PIECIAK, in his official capacity)
as COMMISSIONER OF THE VERMONT)
DEPARTMENT OF FINANCIAL)
REGULATION as LIQUIDATOR of GLOBAL)
HAWK INSURANCE COMPANY RISK)
RETENTION GROUP)

DOCKET NO. 2:20-CV-00173

Plaintiff,)

v.)

JASBIR S. THANDI, GLOBAL CENTURY)
INSURANCE BROKERS, INC., JASPREET)
SINGH PADDA and QUANTBRIDGE)
CAPITAL LLC,)

Defendants.)

**PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO COMPEL DISCOVERY
FROM DEFENDANT JASBIR S. THANDI**

The Plaintiff Michael S. Pieciak, Commissioner of the Vermont Department of Financial Regulation, as Liquidator (“Liquidator”) of Global Hawk Insurance Company Risk Retention Group (“Global Hawk”), submits this reply in support of his motion to compel discovery from Defendant Jasbir S. Thandi (“Thandi”).

Thandi’s opposition fails to respond to the Liquidator’s argument that the collective entity doctrine applies and requires production of GCIB’s records responsive to the Liquidator’s document requests where Thandi, GCIB’s President, has allowed the corporation to default but seeks to defend

personally. He cannot have it both ways.¹ It is well-established that collective entities such as corporations may not invoke the Fifth Amendment to evade document requests. *See, e.g., Braswell v. United States*, 487 U.S. 99, 102 (1988); *United States v. Fridman*, 974 F.3d 163, 180 (2d Cir. 2020). In this case, the Liquidator’s document requests expressly sought production of records of GCIB as those records are within Thandi’s possession, custody and control because he is the President of GCIB and owns 100% of GCIB. Thandi does not dispute his officer position and ownership. Where Thandi has allowed GCIB to default, it is appropriate for the Liquidator to request the corporate records directly from him given his corporate position.²

Thandi contends the Fifth Amendment extends to production of documents based on the “act of production” doctrine. Opposition at 6. However, the Fifth Amendment privilege protects only natural persons, not collective entities, and GCIB, a corporation, and Thandi, as its President, may not rely on the Fifth Amendment to refuse to produce GCIB’s documents. *See Braswell*, 487 U.S. 104-108, 108-112; *Fridman*, 974 F.3d at 180. The Court of Appeals for the Second Circuit has held that even one-person corporations are collective entities. *In re Grand Jury Subpoena Issued June 18, 2009*, 593 F.3d 155, 158-159.

Thandi notes that GCIB’s insurance broker license expired on August 31, 2020 and he states “on information and belief” that GCIB has been “out of business since about that time.” Opposition at 3, n. 2. The status of GCIB’s business operations does not excuse non-compliance with the document requests, however. The Liquidator only needs to present a reasonable basis to believe that the defendant has the ability to produce records, at which point the burden shifts to the defendant to explain or justify

¹ It appears from public records in California that Defendant Global Century Insurance Brokers, Inc. remains operational as a California corporation with a principal business address at 2575 Collier Canyon Road, Livermore, CA. See February 4, 2020 statement of no change at <https://businesssearch.sos.ca.gov> (visited Aug. 18, 2021) (Exhibit A). A separate entity, GCIB Inc., also controlled by Thandi, appears to have been dissolved in September of 2020. See September 29, 2020 Certificate of Dissolution at <https://businesssearch.sos.ca.gov> (visited Aug. 18, 2021) (Exhibit B).

² Given the history of service efforts and GCIB default set forth in the Liquidator’s memorandum in support of the motion to compel, attempting to serve a document subpoena on GCIB appears an unproductive exercise. If necessary, however, the Liquidator is prepared to serve a subpoena on GCIB through its President by service on Thandi’s counsel.

refusal. *See Fridman*, 974 F.3d at 183. Thandi has made no such showing. An unsupported assertion that GCIB is “out of business” does not explain why records are not available, and it does not suffice. In fact, it appears that GCIB continues to operate. On February 6, 2021, GCIB was approved for a PPP loan from Western Alliance Bank based on a report of 21 jobs. See <https://projects.propublica.org/coronavirus/bailouts/loans/global-century-insurance-brokers-inc-4264038404> (visited Aug. 18, 2021) (Exhibit C), and on August 9, 2021, a California attorney with an address at GCIB’s address copied the Liquidator on a letter stating that he represents GCIB. Exhibit D. As President and owner, Thandi controls GCIB’s records, and he should be ordered to produce them.

Even considering only Thandi as an individual, the “act-of-production privilege is not an absolute one.” *Fridman*, 974 F.3d at 174. As Thandi noted at page 7 of his Opposition, the privilege is subject to a “foregone conclusion” exception. Under that exception, the Liquidator need only show that he is aware of the existence of documents, that the defendant possesses or controls the documents, and that the Liquidator can otherwise authenticate the documents. *See id.* at 174-175. Many of the documents sought in the document requests concern financial records that fall within the “foregone conclusion” doctrine. As set forth in the Complaint, the Liquidator is aware of specific Global Hawk accounts at Stifel, of Quantbridge statements concerning those accounts, of specific Global Hawk SPA loan accounts at Stifel, of a specific AFF accounts at Mechanics Bank, of a specific personal account of Thandi’s at Wells Fargo, and of a specific Global Hawk account at Mechanics Bank. *See* Complaint ¶¶ 18-21, 31-32, 47. The Liquidator’s document requests seek statements for the Global Hawk Stifel account from Stifel (Request 1); statements concerning the Global Hawk Stifel account from Quantbridge (Request 2); documents concerning the application for (Requests 25 and 29) and concerning (Requests 26 and 30) the SPA loan accounts at Stifel; documents concerning specific checks drawn on Thandi’s account at Wells Fargo (Requests No. 39 and 40); documents concerning deposits to

Global Hawk's Mechanics Bank account on particular days (Requests 41 and 42); and documents concerning Global Hawk's Mechanics Bank account (Request 43).³

These requests seeking documents concerning specific accounts, and in some instances particular transactions in specific accounts, fall within the foregone conclusion exception. *See Fridman*, 974 F.3d at 176-180. The Liquidator knows about the existence of these accounts and transactions, and documents such as statements, opening documents, transaction records customarily exist. *See id.* at 176-78. Thandi, as to his own accounts, and as President of GCIB, for others, controls the records. Records regarding bank and investment accounts for the 2016-2020 period can reasonably be inferred to still exist, and they can be authenticated by comparison with records the Liquidator has obtained from the banks and Stifel or with records from the Captive Manager's files that the Liquidator possesses.

For these reasons and those set forth in his opening memorandum, the Liquidator requests that his motion to compel be granted.

Dated: August 20, 2021

Respectfully submitted,

MICHAEL S. PIECIAK, COMMISSIONER OF
THE VERMONT DEPARTMENT OF
FINANCIAL REGULATION, SOLELY AS
LIQUIDATOR OF GLOBAL HAWK
INSURANCE COMPANY RISK RETENTION
GROUP,

By his attorneys,

Jennifer Rood, Assistant General Counsel and
Special Assistant Attorney General
Vermont Department of Financial Regulation
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Montpelier, VT 05620
(802) 828-5672
Jennifer.Rood@vermont.gov

/s/ Eric A. Smith

³ The Liquidator's motion to compel inadvertently attached the document requests as Exhibit A. The Liquidator subsequently filed the intended exhibit (Thandi's responses to the document requests) as Docket #58.

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this ___th day of August, 2021, a true and correct copy of Plaintiff's Reply in Support of Motion to Compel Discovery from Defendant Jasbir S. Thandi was served by ECF on all counsel of record.

/s/ Eric A. Smith
Eric A. Smith

Exhibit A



**State of California
Secretary of State**

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

GC83146

FILED

In the office of the Secretary of State
of the State of California

FEB-04 2020

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. CORPORATE NAME

GLOBAL CENTURY INSURANCE BROKERS, INC.

2. CALIFORNIA CORPORATE NUMBER

C2645281

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 17.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY	STATE	ZIP CODE
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4	CITY	STATE	ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
8. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
9. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME	ADDRESS	CITY	STATE	ZIP CODE
11. NAME	ADDRESS	CITY	STATE	ZIP CODE
12. NAME	ADDRESS	CITY	STATE	ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

02/04/2020 VIOLET YAN ACCOUNTANT
DATE TYPE/PRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

Exhibit B

D 1590184



Secretary of State
Certificate of Dissolution
 (California Stock Corporation ONLY)

DISS STK

FILED *TDP*
 Secretary of State
 State of California

SEP 29 2020

KAS

IMPORTANT — Read Instructions before completing this form.

There is **No Fee** for filing a Certificate of Dissolution - Stock

Copy Fees – First page \$1.00; each attachment page \$0.50;
 Certification Fee - \$5.00 plus copy fees

This Space For Office Use Only

1. Corporate Name (Enter the exact name of the Corporation as it is recorded with the California Secretary of State.)

GCIB, Inc

2. 7-Digit Secretary of State File Number

C3466846

3. Election

The dissolution was made by a vote of **ALL** of the shareholders of the California corporation.

Note: If the above box is not checked, a **Certificate of Election to Wind Up and Dissolve** (Form ELEC STK) must be filed prior to or together with this Certificate of Dissolution. (California Corporations Code section 1901.)

4. Debts and Liabilities

(Check the applicable statement. Only **one box** may be checked. If second box is checked, must include the required information in an attachment.)

The known debts and liabilities have been actually paid or paid as far as its assets permitted.

The known debts and liabilities have been adequately provided for in full or as far as its assets permitted by their assumption. Included in the **attachment** to this certificate, incorporated herein by this reference, is a description of the provisions made and the name and address of the person, corporation or government agency that has assumed or guaranteed the payment, or the depository institution with which deposit has been made.

The corporation never incurred any known debts or liabilities.

5. Required Statements (Do not alter the Required Statements – **ALL** must be true to file Form DISS STK.)

- a. The Corporation has been completely wound up and is dissolved.
- b. All final returns required under the California Revenue and Taxation Code have been or will be filed with the California Franchise Tax Board.
- c. The known assets have been distributed to the persons entitled thereto or the corporation acquired no known assets.

6. Read, Verify, Date and Sign Below (See Instructions for signature requirements.)

The undersigned is the sole director or a majority of the directors now in office. I declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

09/22/2020

Date

Jasbir Singh Thandi
 Signature

JASBIR SINGH THANDI

Type or Print Name

Date

Signature

Type or Print Name

Date

Signature

Type or Print Name

Exhibit C

8/18/2021

GLOBAL CENTURY INSURANCE BROKERS INC - Tracking PPP - ProPublica



Tracking PPP

Search Every Company Approved for Federal Loans

Search for PPP loan applications by organization, lender, zip code and business type.

Home >

GLOBAL CENTURY INSURANCE BROKERS INC

Why is my loan information here?

Loan Amount

\$313,807

Where applicants said the money will go

Payroll	\$313,804
Utilities	\$1
Mortgage Interest	\$0
Health Care	\$0
Rent	\$0
Refinance EIDL	\$0
Debt Interest	\$0

Location

Livermore, CA

Urban

Industry

Insurance Agencies and Brokerages

Date Approved

Feb. 6, 2021 (Second Round)

Lender

Western Alliance Bank

Jobs Reported

21

Business Type

Corporation

Business Age

8/18/2021

GLOBAL CENTURY INSURANCE BROKERS INC - Tracking PPP - ProPublica

Existing or more than 2 years old

Loan Status

Not Disclosed

Companies and nonprofit organizations that receive PPP loans may have the loans forgiven if they meet certain criteria, including not laying off employees during the defined period covered by the loan. Applicants must attest in their application that the loans are necessary for their continuing operation. Note: This data reflects loan applications approved by banks and submitted to the SBA. It may not account for money not distributed to, or credit not used by, a given company.

If you are a representative of this company and believe this record is in error, use this form to let the SBA know.

Has Your Company Received PPP Money?

We want to know what this means for your workplace. How has your company treated its workers during the crisis? Have you or your colleagues been laid off, furloughed or otherwise affected? Have you seen money used in surprising ways? What do you think we should be reporting on?

Name *

Email *

Exhibit D

DOMINIC G. FLAMIANO
NorCal Logistics Lawyers Group, P.C.
A Professional Corporation
Attorney At Law

2575 Collier Canyon Road
Livermore, CA 94551
Tel: (415) 710-6765
Fax: (925) 293-0226
E-mail: Dominic@domflamlaw.com

August 9, 2021

Siamak Vizari
Vaziri Law Group, A.P.C.
5757 Wilshire Blvd., Suite #670
Los Angeles, CA 90036

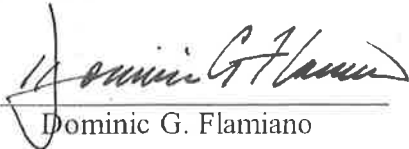
Re: Your Client: Arturo C. Astudillo
Insured: The Boss Trucking, Inc
Date of Loss: January 12, 2019

Dear Mr. Vaziri:

I am in receipt of your time limited demand due on July 30, 2021. That time has lapsed and today is the first day I received your demand. I represent the broker (Global Century Insurance Brokers, Inc.) involved in placing a commercial auto liability policy for The Boss Trucking, Inc. with Global Hawk Insurance Company (RRG)(GHIC). Global Hawk has been placed in Receivership by the Commissioner of the Vermont Department of Financial Regulations and is under a cease and desist and liquidation order. The defense by GHIC has been withdrawn and no actions may be taken and no funds can be disbursed without approval of the Receiver. The Commissioner has appointed a Special Deputy Liquidator, J. David Leslie, for this liquidation process. Proof of Claim Form, instructions, the Order of Liquidation, and other relevant documents are located at the Liquidation website: www.dfr.vermont.gov/global-hawk. Mr. Leslie directs inquiries be made to his colleague, Stuart Leslie, at sleslie@rackemann.com, or (617) 951-1130.

I am returning your demand as well as the attached compact disc.

Very truly yours,

By: 
Dominic G. Flamiano

Cc: Stuart Leslie (via e-mail)