

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL DISTRICT  
IN AND FOR BROWARD COUNTY, FLORIDA**

DANIEL S. NEWMAN, as RECEIVER for  
FOUNDING PARTNERS STABLE VALUE  
FUND, LP; FOUNDING PARTNERS  
STABLE VALUE FUND II, LP; FOUNDING  
PARTNERS GLOBAL FUND, LTD.; and  
FOUNDING PARTNERS HYBRID-VALUE  
FUND, LP,

Plaintiff,

v.

ERNST & YOUNG LLP, a Delaware Limited  
Liability Partnership; and MAYER BROWN  
LLP, an Illinois Limited Liability Partnership,

Defendants.

Case No. 10-49061(19)

Chief Judge Jack Tuter

**ELEVENTH JOINT ARBITRATION STATUS REPORT**

Pursuant to Paragraph 13 of the Court's Order dated February 23, 2018, Plaintiff Daniel S. Newman (the "Receiver") and Defendant Ernst & Young LLP ("EY") hereby provide the following joint status report concerning the Receiver's claims against EY that were compelled to arbitration by and through the Court's Order dated May 20, 2016, as affirmed in part by the Fourth District Court of Appeal of the State of Florida in its October 11, 2017 opinion.<sup>1</sup>

As set forth in the parties' March 1, 2023 joint status report, certain of the claims ordered to arbitration have been filed with the American Arbitration Association ("AAA") and are now before a panel of AAA arbitrators (the "AAA Arbitration"); the remaining claims, which the

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<sup>1</sup> The claims against EY ordered to arbitration are Count I (professional malpractice), Count II (negligent misrepresentation on behalf of the Funds), Count III (fraud on behalf of the Funds), Count IV (breach of fiduciary duty), Count V (aiding and abetting fraud), and Count VI (aiding and abetting breach of fiduciary duty).

Receiver initially filed in AAA, have since been filed with the International Institute for Conflict Presentation and Resolution (“CPR”) and are now before a panel of CPR arbitrators (the “CPR Arbitration”).

The final hearing in the AAA Arbitration was scheduled to commence on April 3, 2023, with the CPR Arbitration final hearing to be scheduled thereafter. In advance of the final hearing in the AAA Arbitration, the parties agreed to participate in a global mediation of the claims in the AAA Arbitration, the claims in the CPR Arbitration, and the claims pending before this Court (collectively, the “Litigation”). The mediation concluded on March 16, 2023, with the parties executing a term sheet outlining a settlement of the Litigation.

On July 24, 2023, the Receiver and EY executed a Settlement Agreement (the “Settlement Agreement”). On August 1, 2023, the Receiver filed a Motion to Approve Proposed Settlement Agreement with EY, to Approve the Proposed Notice of Settlement and Bar Order Proceedings, and to Enter the Final Settlement Approval and Bar Order in *SEC v. Founding Partners Capital Management Co. and William L. Gunlicks*, Civil Action No. 2:09-cv-00229-JES-SPC (M.D. Fla.). On August 16, 2023, the court granted preliminary approval of the Settlement Agreement and scheduled the Final Approval Hearing for October 25, 2023. Under the terms of the Settlement Agreement, within ten days of an order approving the Settlement Agreement and entering a bar order becoming Final (as that term is defined in the Settlement Agreement), the Receiver and EY jointly will seek dismissal with prejudice of this action, as well as the AAA Arbitration and the CPR Arbitration. The AAA Arbitration and CPR Arbitration currently are stayed pending the settlement approval process, and the parties have agreed to advocate for the maintenance of those stays, as well as the maintenance of the stay in this action, pending completion of the settlement approval process and the dismissal of the Litigation.

Per the Court's February 23, 2018 Order, the Receiver and EY will submit another joint status report on March 1, 2024.

Respectfully submitted,

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Dated: September 1, 2023

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct digital copy of this paper has been served through Florida's E-filing Portal to counsel of record listed below this 1st day of September, 2023.

/s/ Katherine M. Turner  
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