

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 16-CV-21301-GAYLES**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**ARIEL QUIROS,  
WILLIAM STENGER,  
JAY PEAK, INC.,  
Q RESORTS, INC.,  
JAY PEAK HOTEL SUITES L.P.,  
JAY PEAK HOTEL SUITES PHASE II L.P.,  
JAY PEAK MANAGEMENT, INC.,  
JAY PEAK PENTHOUSE SUITES L.P.,  
JAY PEAK GP SERVICES, INC.,  
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,  
JAY PEAK GP SERVICES GOLF, INC.,  
JAY PEAK LODGE AND TOWNHOUSES L.P.,  
JAY PEAK GP SERVICES LODGE, INC.,  
JAY PEAK HOTEL SUITES STATESIDE L.P.,  
JAY PEAK GP SERVICES STATESIDE, INC.,  
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,  
AnC BIO VERMONT GP SERVICES, LLC,**

**Defendants, and**

**JAY CONSTRUCTION MANAGEMENT, INC.,  
GSI OF DADE COUNTY, INC.,  
NORTH EAST CONTRACT SERVICES, INC.,  
Q BURKE MOUNTAIN RESORT, LLC,**

**Relief Defendants.**

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**PLAINTIFF'S NOTICE OF FILING ADDITIONAL DECLARATIONS FOR THE  
SHOW CAUSE HEARING SCHEDULED FOR MAY 9, 2016**

Plaintiff Securities and Exchange Commission files the attached Declaration of George Gulisano, Exhibit 110, and the Declaration of Trisha Sindler and supporting exhibits thereto,

Exhibit 138, in further support of their request for the Court to enter a Preliminary Injunction against Defendant Quiros and in advance of the May 9, 2016 Show Cause hearing.<sup>1</sup>

The Declaration of Guilsano that the Commission is submitting<sup>2</sup> makes clear that he did not have access to the accounts of Jay Construction Management, Inc. (“JCM”), since it was under the control of Defendant Ariel Quiros; he does not know what JCM/Quiros did with the approximately \$47 million of Anc Bio Phase VII investor funds that JCM received; and only Quiros had authority over JCM accounts and account records.<sup>3</sup>

The Declaration of Sindler makes clear that when the Commission initially questioned Quiros under oath on May 22, 2016, he claimed that JCM had paid Anc Bio Pharm more than \$18 million instead using the funds (as the account records showed) to pay off a margin loan. A few days after Quiros’ initial testimony had concluded the nearly identical declarations of Won Gyu. Jang and La Jyun Kim were executed.<sup>4</sup> When the Commission later questioned Quiros about these declarations, Quiros admitted under oath that he had come up with the idea of what would be contained in Jang and Kim declarations, which were executed after Quiros had already used investor funds to pay off the margin loan. In addition, Defendant Quiros testified that in

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<sup>1</sup> The Commission will also call live witnesses and present additional exhibits at the Show Cause Hearing. [See DE 102, Plaintiff’s Notice of Filing Exhibit and Witness List for the Show Cause Hearing].

<sup>2</sup> On May 5, 2016, Quiros submitted a different declaration of Guilsano, as an Exhibit to his Response to the SEC’s Motion for Preliminary Injunction and Motion for Receiver (“Response”) (DE 99) where Guilsano declared that approximately \$47 million of investor funds had been submitted to JCM.

<sup>3</sup> The Commission’s position is that instead of using the investor funds JCM had received to benefit the project, Quiros misappropriated and misused most of these funds by, among other things, using: (a) more than \$18 million of these funds to pay off a margin loan that did not relate to the Anc Bio project and that Quiros had used to purchase Q Burke Resort, (b) more than \$10 million of these funds were used to back a personal line of credit that he used to pay his personal income taxes, pay construction vendors from a prior project, and pay Ponzi returns to investors in prior projects; and (c) more than \$4 million of these funds were used to pay JCM’s taxes.

<sup>4</sup> Quiros submitted these dubious declarations of Jang and Kim, both dated May 22, 2014, as part of an Exhibit to Quiros’ Response. [DE 100, Ex. 6].

fact (contrary to his initial testimony) the money had not been paid to Anc Bio Pharm (instead it was used to pay off the margin loan), and he had *a verbal agreement, that was not reflected in the declarations, to still pay AnC Bio Pharm the more than \$18 million owed* pursuant to the unpaid invoices. Lastly, the Declaration of Sindler makes clear that despite repeated attempts neither Jang nor Kim have made themselves available for questioning about their declarations.

Respectfully submitted,

May 6, 2016

By: s/ Christopher E. Martin  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on May 6, 2016, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing

generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Christopher E. Martin  
Christopher E. Martin, Esq.

**SERVICE LIST**

*SEC v. Ariel Quiros, et al.*  
*Case No. 16-CV-21301-GAYLES*

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*Counsel for Intervenor, Citibank N.A.*

**DECLARATION OF GEORGE GULISANO**

Pursuant to 28 U.S.C. Section 1746, the undersigned states as follows:

1. My name is George Gulisano. I am over twenty-one years of age and have personal knowledge of the matters set forth herein.

2. From approximately April 2011 until April 14, 2016, I served as Chief Financial Officer for Jay Peak, Inc. (“Jay Peak”). In that capacity, I had signatory authority over accounts at People’s United Bank in the name of Jay Peak, and Jay Peak Management, Inc., until approximately May 2015. I did not have signatory authority over any limited partnership accounts at People’s United Bank. Even for those accounts over which I had signatory authority, I did not direct any transfers of funds in or out of those accounts without the permission and direction of Ariel Quiros or Bill Stenger.

3. I also did not have signatory authority over any accounts in the name of Jay Construction Management. In addition, I did not have access to any of the account records or statements for Jay Construction Management. I also did not have signatory authority over any accounts at Raymond James. In addition, I did not have access to any of the account records or statements for any accounts held at Raymond James. To my knowledge, only Ariel Quiros had authority over Jay Construction Management’s accounts and accounts held at Raymond James and only he had access to their account records or statements.

4. In 2013 and 2014, I received a series of invoices, usually in the amount of \$2.6 million, from Jay Construction Management. The invoices were generally addressed to the general partner of Jay Peak Biomedical Research Park, L.P., and stated they were for “architectural, engineering fees, and deposits for equipment.” My understanding was these invoices were for services that would be performed or equipment that would be provided by AnC



BioPharm or other Biomedical vendors. Moreover, the invoices requested that investor funds be transferred to Jay Construction Management's account at Raymond James or successor accounts.

5. In total, approximately \$47 million of investor funds were transferred to a Jay Construction Management's account at Raymond James. Usually, the flow of these funds was that a Biomedical account at People's United Bank received funds from a Biomedical account at Raymond James or successor accounts, then the funds were transferred from the Biomedical account at People's United Bank to a Jay Construction Management account at Raymond James or successor accounts.

6. I do not know what Jay Construction Management did with the investor funds it received. Moreover, I do not know if the investor funds Jay Construction Management received, were in fact paid to AnC BioPharm or other Biomedical vendors. I did not have access to account records or statements of Jay Construction Management and I did not have signatory authority over any account held by Jay Construction Management.

I declare under penalty of perjury that the foregoing is true, correct, and made in good faith.



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George Gulisano

Executed on this \_\_4th\_\_ day of May, 2016.

**DECLARATION OF TRISHA SINDLER**

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Trisha Sindler. I am over the age of twenty-one (21) and have personal knowledge of the matters set forth herein.

2. I am a Senior Counsel with the Miami Regional Office of the United States Securities and Exchange Commission (“Commission”) located at 801 Brickell Avenue, Suite 1800, Miami, Florida 33131.

3. As part of my duties with the Commission, I was assigned to the investigation of Jay Peak, Inc. (FL-03815).

4. In connection with the investigation, I and other Commission staff members took sworn testimony of Ariel Quiros on May 22, 2014.

5. During this testimony, the Commission staff questioned Mr. Quiros about documents showing that \$18.2 million raised from investors in the Jay Peak Biomedical Research Park L.P. (“Biomedical”) limited partnership offering had in fact been used to pay-off a Jay Peak, Inc. margin loan rather than paying AnC BioPharm, Inc. (“AnC Biopharm”) per several invoices. Quiros claimed under oath the invoices were in fact paid. (*See* TRO Ex. 10, Quiros May 22, 2014 Testimony Transcript, p. 236, lines 20-23). Moreover, Quiros testified under oath that he had paid the invoices. (*See* TRO Ex. 10, p. 237, line 25 – p. 238, line 24). Mr. Quiros told the staff he would provide supporting documents to show the payment of the invoices.

6. Shortly after Mr. Quiros’s May 22, 2014 testimony, his counsel provided the Commission staff with the declarations of Dr. Won Gyu Jang, President of AnC Biopharm, and La Kyun Kim, Director of AnC Biopharm. The declarations, both dated



May 25, 2014, were nearly identical and claimed that AnC BioPharm had directed that approximately \$21 million owed to it for services provided to Biomedical be paid to Jay Peak and they regarded as if the money had been paid to AnC BioPharm. Both of these Declarations were attached as part of Mr. Quiros Response to the SEC's Motion for a Preliminary Injunction and Motion for Receiver, which was filed on May 5, 2016.

7. I repeatedly attempted to contact Dr. Jang and Mr. Kim. I could not serve them with subpoenas, because, to our knowledge, they reside in South Korea. Hence, on July 2, 2014, I sent emails to them, asking if they would speak with me, on a voluntary basis, about their declarations. Copies of these emails are attached as Exhibits A and B, respectively.

8. Neither Dr. Jang nor Mr. Kim responded to my July 2 emails. So, on July 17, 2014, I tried reaching out to them again and sent follow-up emails. I asked if they would agree to voluntary interviews at dates and times that would be convenient for them. Copies of these emails are attached as Exhibits C and D, respectively.

9. After discussing with Mr. Quiros's counsel that Dr. Jang and Mr. Kim were not responding to my emails, he provided me with the contact information for Mr. Jin, who he told me was representing Dr. Jang and Mr. Kim. I then sent an email to Mr. Jin on August 15, 2014, asking for the opportunity to speak with his clients. A copy of the email is attached as Exhibit E. Mr. Jin never responded to my email.

10. Hence, despite numerous efforts, the Commission staff was never able to interview, or have any communication with, Dr. Jang or Mr. Kim about their declarations or the accuracy of the statement made therein.

11. On September 22, 2015, I and other Commission staff members took additional sworn testimony from Mr. Quiros. When we questioned him about the declarations of Dr. Jang and Mr. Kim, Mr. Quiros acknowledged that he had come up with the idea of what would be contained in the declarations, that the money to pay for the invoices had been used to pay-off the margin loan, and he had a verbal agreement, that was not reflected in the declarations, to still pay AnC Bio Pharm the \$21 million owed pursuant to the unpaid invoices.

12. For example, Mr. Quiros testified that approximately \$21 million was owned to pay down the Jay Peak margin debt at Raymond James & Associates, so “. . . we decided, let’s pay it down and let’s not pay South Korea for right now. And let’s pay down the debt. So that was what was done. And this declaration of – this document is what was composed. But the reason was to pay down the debt at Raymond James, which was about twenty-one million. That’s the reason.” (*See* TRO Ex. 13, Quiros September 22, 2015 Testimony Transcript, p. 424, lines 14-21).

13. In addition, Mr. Quiros acknowledged that he had an idea of what he wanted written in the declarations. (*See* TRO Ex. 13, p. 426, line 7 - p. 427, line 4).

14. Furthermore, when questioned about paragraph 1 of the Dr. Jang and Mr. Kim’s declarations, Mr. Quiros acknowledged that he raised the matters concerning amounts owed by Jay Construction Management, Inc. to AnC Biopharm after his initial testimony. (*See* TRO Ex. 13, p. 432, lines 3 -14).

15. Moreover, AnC Biopharm’s agreement to regard the approximate \$21 million paid by Jay Construction Management, Inc. to Jay Peak as if it was paid to AnC Biopharm was almost for certain entered into after the Jay Peak margin loan at Raymond

James was paid off. (*See* TRO Ex. 13, p. 438, line 25 - p. 439, line 16 & p. 441, lines 11-17).

16. Mr. Quiros further acknowledged that it was after his May 22, 2014 testimony when he spoke with AnC Biopharm about the \$21 million. (*See* TRO Ex. 13, p. 442, line 23 - p. 443, line 21).

17. In addition, Mr. Quiros acknowledged that there was a verbal agreement with AnC Biopharm that was not reflected on the declarations that the \$21 million would be paid to AnC Biopharm at a later date:

6 Q And then if you can flip over to the  
7 next page, paragraph seven. Where it says, "From  
8 the perspective of AnC Biopharm, it made  
9 significant economic sense for JCM to pay JPI  
10 rather than AnC Biopharm."

11 A Say again, please.

12 Q Just if you could look at the first  
13 sentence of paragraph seven, "From the perspective  
14 of AnC Biopharm, it made significant economic  
15 sense for JCM to pay JPI rather than AnC  
16 Biopharm."

17 A That's correct.

18 Q Is that a sentence you came up with?

19 A I don't know how to answer that  
20 question. I gave certain task, and this is what  
21 was composed. I gave a certain task what we  
22 needed to get done.

(*See* TRO Ex. 13, p. 447, lines 6-22).

13 Q That you came up with it in that  
14 sentence?

15 A Okay. I came up with that sentence.

16 Q Is that correct?

17 A Yeah.

18 Q Okay.

19 How would it make economic sense from  
20 AnC Biopharm's perspective for JCM to pay JPI  
21 rather than AnC Biopharm?

22 A I can -- Korea can control my cost, and  
23 they will deliver what they have to deliver. So  
24 with due time, they will get this money back  
25 anyway, and that will -- it will take care of the

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1 cost to do the necessary work.

2 MR. MARTIN: How will they get the money  
3 back?

4 THE WITNESS: Oh, there's many ways.

5 One, I have no debt. My mountain was just  
6 appraised last month for a hundred and eight  
7 million. I have no debt. I can get the money  
8 from that, number one. Number two, I have real  
9 estate holdings. Number three, I have personal  
10 real estate holdings.

11 MR. MARTIN: So is there an agreement  
12 that they'll be paid this twenty-one million at  
13 some later date?

14 THE WITNESS: Verbal. I will get it  
15 done.

16 MR. MARTIN: And who did you have that  
17 verbal agreement with?

18 THE WITNESS: Pharm, AnC Biopharm.

19 MR. MARTIN: But that verbal agreement's  
20 not reflected in these declarations?

21 THE WITNESS: No, sir.

(See TRO Ex. 13, p. 448, line 13 – p. 450, line 21).

I declare under penalty of perjury that the foregoing is true, correct, and made in  
good faith.

  
\_\_\_\_\_  
Trisha Sindler

Executed on this 6th day of May, 2016

**From:** Fuchs, Trisha Sindler  
**To:** "[cavin.jang@ancbio.com](mailto:cavin.jang@ancbio.com)"  
**Cc:** [James, Brian T.](#); [Lama, Michelle](#)  
**Subject:** Jay Peak, Inc. (FL-3815)  
**Date:** Wednesday, July 02, 2014 6:23:00 PM

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Dr. Jang:

I am Trisha Sindler, senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office. Brian James, also a senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office, and I would appreciate the opportunity to speak with you regarding your May 25, 2014 declaration pertaining to Jay Construction Management, Inc., AnC Biopharm, Inc., and the payment of \$21 million owned by JCM to AnC Biopharm. Any interview would be voluntary, and you do not have to participate if you do not want to. If you decide to participate, it is important to tell the truth, because we will be relying on the answers. Please let us know if you would agree to speak with us by phone and if you would agree to voluntarily provide us with documents pertaining to your May 25, 2014 declaration, including but not limited to, any communications.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission  
Miami Regional Office  
801 Brickell Avenue, Suite 1800  
Miami, FL 33131  
305-982-6352



**From:** Fuchs, Trisha Sindler  
**To:** "[lyankim@ancbio.com](mailto:lyankim@ancbio.com)"  
**Cc:** [James, Brian T.](#); [Lama, Michelle](#)  
**Subject:** Jay Peak, Inc. (FL-3815)  
**Date:** Wednesday, July 02, 2014 6:24:00 PM

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Mr. Kim:

I am Trisha Sindler, senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office. Brian James, also a senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office, and I would appreciate the opportunity to speak with you regarding your May 25, 2014 declaration pertaining to Jay Construction Management, Inc., AnC Biopharm, Inc., and the payment of \$21 million owned by JCM to AnC Biopharm. Any interview would be voluntary, and you do not have to participate if you do not want to. If you decide to participate, it is important to tell the truth, because we will be relying on the answers. Please let us know if you would agree to speak with us by phone and if you would agree to voluntarily provide us with documents pertaining to your May 25, 2014 declaration, including but not limited to, any communications.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission  
Miami Regional Office  
801 Brickell Avenue, Suite 1800  
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305-982-6352



**From:** Fuchs, Trisha Sindler  
**To:** "[cavin.jang@ancbio.com](mailto:cavin.jang@ancbio.com)"  
**Cc:** [James, Brian T.](#); [Lama, Michelle](#)  
**Subject:** RE: Jay Peak, Inc. (FL-3815)  
**Date:** Thursday, July 17, 2014 9:02:00 AM

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Dr. Jang:

Per our message below, we wanted to reach out to you again to see if you would agree to a voluntary interview. If so, we will work with you to schedule time and date that is convenient for you.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission  
Miami Regional Office  
801 Brickell Avenue, Suite 1800  
Miami, FL 33131  
305-982-6352

**From:** Fuchs, Trisha Sindler  
**Sent:** Wednesday, July 02, 2014 6:24 PM  
**To:** 'cavin.jang@ancbio.com'  
**Cc:** James, Brian T.; Lama, Michelle  
**Subject:** Jay Peak, Inc. (FL-3815)

Dr. Jang:

I am Trisha Sindler, senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office. Brian James, also a senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office, and I would appreciate the opportunity to speak with you regarding your May 25, 2014 declaration pertaining to Jay Construction Management, Inc., AnC Biopharm, Inc., and the payment of \$21 million owned by JCM to AnC Biopharm. Any interview would be voluntary, and you do not have to participate if you do not want to. If you decide to participate, it is important to tell the truth, because we will be relying on the answers. Please let us know if you would agree to speak with us by phone and if you would agree to voluntarily provide us with documents pertaining to your May 25, 2014 declaration, including but not limited to, any communications.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission



**Miami Regional Office  
801 Brickell Avenue, Suite 1800  
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**From:** Fuchs, Trisha Sindler  
**To:** "[lyankim@ancbio.com](mailto:lyankim@ancbio.com)"  
**Cc:** [James, Brian T.](#); [Lama, Michelle](#)  
**Subject:** RE: Jay Peak, Inc. (FL-3815)  
**Date:** Thursday, July 17, 2014 9:03:00 AM

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Mr. Kimi:

Per our message below, we wanted to reach out to you again to see if you would agree to a voluntary interview. If so, we will work with you to schedule time and date that is convenient for you.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission  
Miami Regional Office  
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**From:** Fuchs, Trisha Sindler  
**Sent:** Wednesday, July 02, 2014 6:25 PM  
**To:** '[lyankim@ancbio.com](mailto:lyankim@ancbio.com)'  
**Cc:** James, Brian T.; Lama, Michelle  
**Subject:** Jay Peak, Inc. (FL-3815)

Mr. Kim:

I am Trisha Sindler, senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office. Brian James, also a senior counsel with the U.S. Securities Exchange Commission in the Miami Regional Office, and I would appreciate the opportunity to speak with you regarding your May 25, 2014 declaration pertaining to Jay Construction Management, Inc., AnC Biopharm, Inc., and the payment of \$21 million owned by JCM to AnC Biopharm. Any interview would be voluntary, and you do not have to participate if you do not want to. If you decide to participate, it is important to tell the truth, because we will be relying on the answers. Please let us know if you would agree to speak with us by phone and if you would agree to voluntarily provide us with documents pertaining to your May 25, 2014 declaration, including but not limited to, any communications.

Thank you,

Trisha D. Sindler  
Senior Counsel  
U.S. Securities and Exchange Commission



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801 Brickell Avenue, Suite 1800  
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305-982-6352**

**From:** Fuchs, Trisha Sindler  
**To:** "[Lawyer\\_jin@yahoo.co.kr](mailto:Lawyer_jin@yahoo.co.kr)"  
**Cc:** [James, Brian T.](#); [Lama, Michelle](#)  
**Subject:** Dr. Won Gyu Jang and La Kyun Kim  
**Date:** Friday, August 15, 2014 9:46:00 AM

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Dear Mr. Jin:

My name is Trisha Sindler Fuchs, and I am a Senior Counsel with the Division of Enforcement of the U.S. Securities and Exchange Commission. My colleague Brian James and I are conducting a non-public SEC investigation, In the Matter of Jay Peak, Inc. (FL-03815). The purpose of the investigation is to determine whether there have been violations of the U.S. securities laws, but I am permitted to share information with other law-enforcement agencies if the facts uncovered warrant doing so. The matter is still under investigation, and therefore you should not assume that anyone at the SEC has already determined that someone has violated the law.

We understand that you represent Dr. Won Gyu Jang, President of AnC Biopharm, Inc. and La Kyun Kim, Director of AnC Biopharm, Inc., both of whom have signed declarations that were provided to the SEC. We understand that they travel to the United States periodically and we would appreciate the opportunity to speak with them the next time they come to the U.S. Therefore, please let us know when they are coming to the U.S. so that we can arrange to meet and speak with them.

If they are not planning to come to the United States within the next two months, we would appreciate the opportunity to speak with them by video conferencing, if possible. Any such interview we would conduct of them while they are in South Korea would be voluntary, and they would not have to participate if they do not want to. If they do decide to participate, then it is important that they tell the truth, because we will be relying on their answers as we conduct our investigation.

If you have any questions, please contact me at 305-982-6352 or Brian James at 305-982-6335

Trisha Sindler Fuchs  
Senior Counsel  
U.S. Securities and Exchange Commission  
Miami Regional Office  
801 Brickell Avenue, Suite 1800  
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