

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK

<p>FUND.COM INC., Plaintiff, - against - ADVISORSHARES INVESTMENTS, LLC, <i>et al.</i>, Defendants.</p>	<p>Index No. 650321/2012 Assigned to: Singh, J. (Part 45) Mot. Seq. No. 008</p>
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AFFIRMATION OF JEFFREY CHUBAK

I, Jeffrey Chubak, an attorney admitted to practice before the courts of the State of New York, hereby affirm the following to be true under the penalties of perjury pursuant to CPLR 2106:

1. I am counsel to Thomas Braziel, as receiver of Fund.com Inc. pursuant to the Delaware Chancery Court order attached hereto as Exhibit 1. I submit this affirmation in support of the receiver's motion to restore this action to the calendar and vacate the order, dated October 26, 2015 and entered October 27, 2015, sealing the *Confidential Settlement Agreement and So-Ordered Stipulation*, so ordered on October 26, 2015 (the "Settlement").

Disclosure Requirements

2. Pursuant to Delaware Chancery Court Rule 151(2) and Paragraph 10(c) of the attached order, the receiver is required to file the following with the Delaware Chancery Court on or before January 27, 2017: "a list of the debtors ... of the company, showing all debts due to the company ... with the last known post-office address or place of business of each debtor."

3. Pursuant to Delaware Chancery Court Rule 161, the receiver is required to file the following by February 28, 2017: "a full report of the receiver's proceedings and the state of the affairs of the company." Further, under the rule the receiver also must "make like report[s] at the expiration of each year during the pendency of the receivership."

4. Pursuant to Delaware Chancery Court Rule 162, the receiver's reports for a given period must "show in detail ... all moneys received, when, from whom or from what source." Moreover, the reports must be accompanied by payment vouchers so payments described therein can be verified.

5. Further, 8 Del. C. § 294 provides a receiver "shall, as soon as convenient, file ... an account of all debts due ... to [the corporation], as nearly as the same can be ascertained [and] make a report to the Court of their proceedings, whenever and as often as the Court shall direct."

Need for Relief

6. The Settlement's confidentiality provisions purport to prohibit the receiver from making the foregoing disclosures.

Good Faith

7. On November 30, 2016, the receiver asked Defendants by e-mail to consent to relief from the Settlement's confidentiality provisions, out of an abundance of caution, so as to permit him to fulfill his statutory obligations. Since November 30, the receiver has been in regular communication with Defendants concerning this issue. To date, Defendants have refused to consent to the relief requested by the receiver absent his acceptance of unreasonable conditions.

Genuine Urgency

8. Because the first of the above-described required disclosures must be made by January 27, 2017 (*see* ¶2, *supra*), the receiver has moved by order to show cause and respectfully requests that the relief sought by him be considered and granted on an expedited basis.

Dated: December 22, 2016
New York, New York

/s/ Jeffrey Chubak