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December 28, 2022

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: *SBG Management Services, Inc. et al., v. PGW*; Docket Nos. C-2012-2304183; C-2012-2304324; C-2015-2486618; C-2015-2486642; C-2015-2486648; C-2015-2486655; C-2015-2486664; C-2015-2486670; C-2015-2486674;  
and C-2015-2486677

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Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Motion in Limine and Request for Expedited Response and Treatment with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield, Esq.

DC/lww  
Enclosure

cc: Hon. Eranda Vero w/enc.  
Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this date I served a copy of PGW's Motion in Limine and Request for Expedited Response, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

### VIA EMAIL

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Dated: December 28, 2022



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Daniel Clearfield, Esq.

*Counsel for Philadelphia Gas Works*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. <i>et al.</i>	:	C-2012-2304183
	:	C-2012-2304324
	:	C-2015-2486618
	:	C-2015-2486642
	:	C-2015-2486648
	:	C-2015-2486655
v.	:	C-2015-2486664
	:	C-2015-2486670
	:	C-2015-2486674
Philadelphia Gas Works	:	C-2015-2486677

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**NOTICE TO PLEAD**

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**To:** Each of the Complainants  
**c/o** *Counsel for Complainants*

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Michael Yanoff, Esquire  
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You are hereby notified that, if ordered by Administrative Law Judge Eranda Vero, a written response to the enclosed Motion in Limine by Philadelphia Gas Works must be filed within ten (10) days from service hereof, pursuant to 52 Pa. Code § 5.103. A written response must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served on the Administrative Law Judge and undersigned counsel.

Daniel Clearfield

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Date: December 28, 2022

*Attorneys for Philadelphia Gas Works*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. <i>et al.</i>	:	C-2012-2304183
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	:	C-2015-2486670
	:	C-2015-2486674
Philadelphia Gas Works	:	C-2015-2486677

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**MOTION IN LIMINE BY  
PHILADELPHIA GAS WORKS AND REQUEST FOR  
EXPEDITED RESPONSE AND TREATMENT**

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Pursuant to 52 Pa. Code § 5.103, Philadelphia Gas Works (“PGW”) hereby files this Motion in Limine (“Motion”). In support of this Motion, PGW avers as follows:

**I. INTRODUCTION**

On November 8, 2022, PGW served its Set I Interrogatories requesting that the Complainants SBG Management Services, Inc. *et al* (“SBG”) identify their expert and other witnesses and identify the subject matter of those witnesses’ testimony that will be provided on by SBG on December 30, 2022.<sup>1</sup> On December 8, 2022, SBG served its responses to PGW Set I. Concerningly, SBG’s responses identifying the subject matter of their witness testimony signals that SBG intends to submit expert testimony on alleged damages including “resulting lost income/excess costs incurred as a result of liens” and lay witness testimony on “the damages caused by the improper calculations and billings made by PGW.” *See* SBG responses to PGW-I-1(b) and 2(b) included as **Attachment A**. As such testimony on alleged damages is outside the

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<sup>1</sup> As ordered by Your Honor at the on-the-record prehearing conference convened on November 8, 2022.

limited scope of these proceedings and improper before the Commission, SBG should be precluded from inserting new, never before raised issues through its witness testimony.

## II. LEGAL STANDARDS

A Motion in Limine<sup>2</sup> is an appropriate vehicle to limit the scope of this proceeding to issues *actually* justiciable by the Commission. Section 5.403(a)(2) of the Commission’s regulations authorizes the presiding officer to control the receipt of evidence, expressly granting authority to confine the evidence to the issues in the proceeding and to impose other necessary limitations.<sup>3</sup> Additionally, Section 5.403(b) of the Commission’s regulations requires the presiding officer to “actively employ these powers to direct and focus the proceedings consistent with due process.”<sup>4</sup> A Motion in Limine has been recognized as a valid means of requesting that the presiding officer control the receipt of evidence in proceedings as an exercise of authority granted under 52 Pa. Code § 5.483 (regarding authority of presiding officer).<sup>5</sup> Consistent with prior Commission practice, a Motion in Limine is appropriate in this circumstance to determine

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<sup>2</sup> PA. R.E. 103 allows trial courts to make rulings on evidence prior to trial or at trial but before the evidence is offered through Motions in limine as such motions can expedite the trial and assist in producing just determinations. *See* Pa. R.E. 103, Comment No. 2 (“Pa.R.E. 103(a)(1) specifically refers to motions in limine. These motions are not mentioned in the Federal rule. Motions in limine permit the trial court to make rulings on evidence prior to trial or at trial but before the evidence is offered. Such motions can expedite the trial and assist in producing just determinations.”) While the Commission is not strictly bound by the Pennsylvania Rules of Evidence, the Commission has not abandoned all evidentiary rules, and essential principles must be observed. *See Frompovich v. PECO Energy Company*, Docket No. C-2015-2474602, Opinion and Order at 14-15 (Order entered May 3, 2018);

<sup>3</sup> 52 Pa. Code § 5.403(a)(2)

<sup>4</sup> 52 Pa. Code § 5.403(b)

<sup>5</sup> *See Pa. Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2015-2469275 (Sixth Prehearing Order dated July 14, 2015)(Link: <https://www.puc.pa.gov/pcdocs/1371278.docx>); *Dwayne Ackie et al v. Philadelphia Gas Works*, Docket No. C-2019-3013993, Opinion and Order (Order entered September 15, 2022)(recognizing ALJ Heep’s ruling on PGW’s motion in limine to exclude evidence)(Link: <https://www.puc.pa.gov/pcdocs/1758778.pdf>); *Glen Riddle Station L.P. v. Sunoco Pipeline, L.P.*, Docket No. C-2020-3023129, Order 1) Denying Motion In Limine Of Glen Riddle Station, L.P., 2) Granting In Part And Denying In Part Motion To Strike Of Glen Riddle Station, L.P., 3) Denying Motion In Limine Of Sunoco Pipeline, L.P. And 4) Granting Joint Stipulation Filed By Sunoco Pipeline, L.P. (Order entered August 4, 2021)(Recognizing the presiding officer’s authority to rule on Motions in Limine under 52 Pa. Code §§5.403 & 5.483)(Link: <https://www.puc.pa.gov/pcdocs/1714495.docx>)

and limit the scope of the evidence to be presented in this proceeding prior to it being offered into the record.

### III. ARGUMENT

After over a decade since the original complaints were filed by SBG in 2012, the scope of these proceedings before the Commission has been narrowed to include only two issues:<sup>6</sup> 1) determining the amount Complainants are entitled to because of the historic application of partial payments in a manner that the Commission subsequently determined to be inconsistent with the Commission’s partial payment application rules; and 2) determining the amount Complainants are entitled to as a result of the Supreme Court’s decision in *PGW II*<sup>7</sup> and the Commonwealth Court’s order on retroactivity in *PGW III*.<sup>8</sup> PGW has already provided written testimony on these two issues which PGW served on October 31, 2022.<sup>9</sup> These two issues, as identified in Your Honor’s December 19 Order,<sup>10</sup> define the universe of issues before the Commission based on the narrow remand from the Commonwealth Court and the remaining issue of recalculating the application of partial payments from prior Commission orders in these dockets.

Yet SBG appears to be intending to expand the scope of the issues and to provide testimony on *alleged* consequential damages SBG has suffered. SBG’s responses to discovery clearly states that SBG hopes to provide both expert and lay testimony on alleged damages in the

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<sup>6</sup> See December 19 Order at 1.

<sup>7</sup> *PGW II* held – for the first time – that docketed municipal liens are “the equivalent of a final resolution of a claim between parties” and are “treated in the same manner as a judgment that has been rendered following an adjudicative process.”

<sup>8</sup> *PGW v. PUC*, 249 A.3d 963 (Pa. 2021) (“*PGW I*”), rehearing granted by, in part, and remanded, 256 A.3d 1092 (Table), 2021 Pa. LEXIS 2905, 2021 WL 2697432 (Pa., June 15, 2021), on remand, 2022 Pa. Commw. Unpub. LEXIS 92, 2022 WL 793332 (Pa.Cmwlt., Mar. 16, 2022) (“*PGW III*”).

<sup>9</sup> SBG was granted a continuance to provide its testimony on these issues by December 30, 2022.

<sup>10</sup> December 19 Order at 1.

form of “lost income / excess costs” and other “damages caused by the improper calculations and billings made by PGW.”<sup>11</sup> But testimony on such issues is not within the scope of the two remaining issues<sup>12</sup> in this proceeding and is obviously outside the scope of the Commission’s jurisdiction. Even if the Commission could hear such claims for damages (and it cannot), the Commonwealth Court’s remand and remaining issues do not give SBG the ability to pursue alleged consequential damages at this late point in the procedural posture. Moreover, given the very compressed schedule that has been established for the remand proceeding, there simply is not sufficient time for this new issue testimony to be adequately addressed.

As these topics are not properly before the Commission either in procedural scope or for want of jurisdiction, PGW is filing this Motion in attempt to avoid having to prepare to respond – through rebuttal testimony or cross-examination – to this clearly inappropriate testimony.

**A. The Scope Of These Proceedings Is Limited By The Commonwealth Court’s Remand And The Issues Decided In Commission’s Prior Orders.**

The scope of these proceedings has been narrowed over the past decade of litigation and distilled into two remaining issues for the Commission to dispose of, including:<sup>13</sup> 1) determining the amount Complainants are entitled to because of PGW’s historic application of partial payments in a manner that the Commission subsequently determined to be inconsistent with the Commission’s partial payment application rules; and 2) determining the amount Complainants are entitled to as a result of the Supreme Court’s decision in *PGW II* and the Commonwealth Court’s order on retroactivity in *PGW III*. To respond to the first issue, PGW has submitted

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<sup>11</sup> See Attachment A.

<sup>12</sup> December 19 Order at 1.

<sup>13</sup> See December 19 Order at 1.

testimony that recalculates the Late Payment Charges that SBG would have been responsible for had PGW applied their partial payments in a manner consistent with the Commission's subsequent interpretation of its partial payment regulation (52 Pa. Code § 56.24), as reflected in the settlement on this issue entered in *PA PUC v. PGW*, Docket No. R-2017-2586783.<sup>14</sup> PGW had previously, in good faith, applied an interpretation of the partial payment regulation that was subsequently found to be inconsistent with the PUC's view of the appropriate application. PGW's October 31, 2022 testimony shows that the amounts that SBG would have been billed for LPCs using the revised partial payment application calculation.

Regarding the second determination to be made in these proceedings, the Commonwealth Court provided clear instructions in its order on remand, limiting the scope to be "...solely for the presentation of evidence by the parties and a determination by the Commission concerning the correct amounts of any refunds owed by PGW to SBG..."<sup>15</sup> PGW's October 31, 2022 testimony shows the amount of refunds that SBG can claim based on the differences in interest rate applied (18% under PGW's tariff vs. 6% under the Post-Judgment Interest law) and under the limited retroactivity of *PGW III*.<sup>16</sup> SBG is free to submit testimony commenting on PGW's calculation of the effect of these two revisions on SBG's historic payments, or to submit their own calculations on the amount PGW should have charged SBG and the amount of overcharge that SBG experienced.

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<sup>14</sup> *PA PUC v. PGW*, Docket No. R-2017-2586783, Opinion and Order (Order entered June 28, 2019)(<https://www.puc.pa.gov/pcdocs/1625692.docx>)(Order approving, among other things a Joint Petition for Settlement dated April 17, 2019)(<https://www.puc.pa.gov/pcdocs/1615821.pdf>)

<sup>15</sup> *PGW III*, Ordering Paragraph No. 2.

<sup>16</sup> See December 19 Order at 21 (Docket Nos. C-2012-2304324, C-2012-2304183, C-2015-2486642, C-2015-2486677, C-2015-2486674; C-2015-2486670, C-2015-2486664, C-2015-2486655, C-2015-2486648, and C-2015-2486618)

However, under neither of the two remaining issues can a question of damages beyond such overcharges be addressed. SBG cannot be allowed to present testimony by three witnesses on alleged “damages caused,” “resulting lost income / excess costs,” and related topics which are outside the scope of these proceedings and improper before this Commission and obviously well beyond a calculation of rate overcharges discussed above. Therefore, PGW requests that SBG be precluded from expanding the scope of these proceedings through the introduction of expert or lay witness testimony on alleged consequential damages, going beyond the calculation of rate overcharges for which PGW has already provided testimony. Testimony on *alleged* damages would impermissibly expand the issues of this proceeding to matters never pleaded and plainly outside the Commission’s jurisdiction, as discussed below.

**B. The Commission Cannot Award Damages, And The Subject Matter Of Testimony SBG Identified Regarding Alleged “Lost Income / Excess Costs” And Other Alleged Damages Is Improper.**

By any reasonable interpretation, SBG’s listing of the type of testimony they intend to present includes claims of monetary damage that go beyond calculations of the rate overcharges (and payments) resulting from the PUC’s interpretation of the partial payment regulation and the Supreme Court’s decision in *PGW II*. Testimony on (alleged) “resulting lost income / excess costs incurred as a result of liens” is clearly a reference to consequential damages – that is, alleged monetary harm over and above the amounts subject to the recalculation regarding late payment charges and correct interest rate on docketed liens if the two new rules had been in place during the historic periods examined regarding PGW’s rates. It is fundamental that the

Commission lacks the statutory authority to hear claims on or award damages for such items.<sup>17</sup> Pennsylvania law has long held that lost income and related damages is a question for the trial courts.<sup>18</sup> The Commission has consistently dismissed claims for alleged monetary damages including claims of lost income for lack of jurisdiction.<sup>19</sup> Indeed, prior orders in these proceedings, including Your Honor's December 19 Order, have informed SBG of the scope of the Commission's jurisdiction over these disputes and described the doctrine of primary jurisdiction and principles of bifurcation of matters with the trial courts in utility disputes involving alleged damages.<sup>20</sup>

SBG's intent to present testimony on alleged damages is not only improper and non-justiciable by the Commission, but consideration of these issues not pleaded by SBG<sup>21</sup> would violate PGW's due process rights<sup>22</sup> and ultimately waste the parties and the Commission's

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<sup>17</sup> *Byer v. Peoples Natural Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980)

<sup>18</sup> *See Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); *see also Delahanty v. First Pennsylvania Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983).

<sup>19</sup> *See e.g. Carlson v. Equitable Gas Company*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008)(Holding that complainant's claims of lost income, property damage, and mental stress were "monetary damages" that the Commission lacks authority to award.)(citing *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982)).

<sup>20</sup> *SBG Management Services, Inc et al. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 et al, Opinion and Order at 77-78 (entered December 8, 2016)

<sup>21</sup> Assuming, *arguendo*, that the Commission could hear claims for alleged damages, which it cannot, the underlying 2012 and 2015 complaints (which were never amended) do not request that the commission: 1) determine damages related to the "income / excess costs" to SBG; or 2) the damages caused by improper calculations and billings made by PGW." SBG cannot expand the scope of its complaints to matters never pleaded, as PGW had no notice it would be required to defend such claims in violation of PGW's due process nor had the opportunity to file appropriate objections to the request. See the Commission's summary of SBG's relief sought at: *SBG Management Services, Inc et al. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 et al, Opinion and Order at 10-11 (entered December 8, 2016)

<sup>22</sup> "The Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness." *Hess v. Pa. Pub. Util. Comm'n*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014); *Bridgewater Borough v. Pa. Pub. Util. Comm'n*, 124 A.2d 165 (Pa. Super. 1956); *McCormick v. Pa. Pub. Util. Comm'n*, 30 A.2d 327 (Pa. Super. 1943). "Among the requirements of due process are notice and an opportunity to

resources in contesting issues of clear blackletter law that cannot be disputed before or heard by the Commission. Further, in addition to Your Honor's and the Commission's prior orders, SBG was explicitly placed on notice that the Commission cannot decide or award damages in SBG's own formal complaint documents using the Commission's formal complaint form which clearly states under "5. Requested Relief":

**...Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.**<sup>23</sup>

Given the expedited nature of the litigation schedule in these proceedings, PGW requests that SBG be precluded from expanding the scope of these proceedings to include alleged damages where SBG has long been on notice that such claims are outside the Commission's jurisdiction. Such order is necessary to protect PGW's due process rights as the expedited schedule in this matter will not permit PGW to prepare and present a suitable defense to these newly raised, never pleaded issues or pursue necessary discovery to determine the validity and credibility of SBG's newly raised claims which are outside the scope and jurisdiction of the Commission. Additionally, an order precluding such testimony on alleged damages will alleviate the need for PGW to file an appropriate motion to strike such testimony submitted by SBG on December 30, 2022, further wasting the resources of the parties and Your Honor on matters long

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be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal." *Hess v. Pa. Pub. Util. Comm'n*, 107 A.3d 246,266 (Pa. Cmwlth. 2014); *Davidson v. Unemployment Compensation Bd. of Review*, 151 A.2d 870 (Pa. Super. 1959); *In re Shenandoah Suburban Bus Lines, Inc.*, 46 A.2d 26 (Pa. Super. 1946).

<sup>23</sup> See, e.g., *SBG Management Services, Inc./Simon Gardens Realty Co., LP v. Philadelphia Gas Works*, Docket No. C-2015-2486642, Formal Complaint (received by the Commission on May 29, 2015)(emphasis original).

settled under black letter law and far outside the narrow scope of this matter before the Commission.

**C. PGW’s Request For Expedited Response And Expedited Treatment.**

Pursuant to 52 Pa. Code § 5.103(c), PGW respectfully requests that Your Honor shorten the response period for this motion from 20 days to 10 days, so that the issue of SBG providing testimony outside the scope of these proceedings and outside the jurisdiction of the Commission can be resolved sufficiently in advance of January 17, 2023, when PGW’s rebuttal testimony is due under the existing expedited procedural schedule. As it stands, without shortening the response time the Motion cannot be resolved prior to the deadline to submit rebuttal testimony, for which PGW needs advance notice as to whether or not it will be required to respond to and defend against SBG’s newly alleged “damage” claims. Unless the answer period is shortened, SBG’s answer would not be due until January 17, 2023 which is also the day that Your Honor ordered the parties to provide rebuttal testimony. This does not allow time for Your Honor to rule and for PGW to ultimately prepare whatever rebuttal testimony is warranted. PGW avers that given the blackletter issue of law raised in this motion and its limited length, SBG will not be overburdened by a ten (10) day response period as SBG has been on notice from prior rulings in these proceedings, including Your Honor’s December 19 Order, and even SBG’s own formal complaint forms that the Commission cannot consider nor award damages.

#### IV. CONCLUSION

For the foregoing reasons, PGW respectfully requests that Your Honor:

- 1) Preclude SBG from providing testimony on “resulting lost income / excess costs incurred” and other alleged damages which are outside the scope of this proceeding and the Commission’s jurisdiction;
- 2) Rule that given that Commission’s lack of jurisdiction over the award of damages, PGW need not provide rebuttal on such topics;
- 3) Order that SBG must respond to this motion within 10 days in order to resolve the clear issue of blackletter law prior to the deadline for rebuttal testimony under the expedited litigation schedule.

Respectfully submitted,



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Date: December 28, 2022

*Attorneys for Philadelphia Gas Works*

# Attachment A

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. <i>et al.</i>	:	C-2012-2304183
	:	C-2012-2304324
	:	C-2015-2486618
	:	C-2015-2486677
	:	C-2015-2486674
	:	C-2015-2486670
v.	:	C-2015-2486664
	:	C-2015-2486655
	:	C-2015-2486648
Philadelphia Gas Works	:	C-2015-2486674

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**PHILADELPHIA GAS WORKS' INTERROGATORIES ADDRESSED TO SBG  
MANAGEMENT SERVICES, INC. *ET AL.*, SET I**

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Pursuant to 52 Pa. Code §§ 5.341, 5.342 and 5.349, Philadelphia Gas Works ("PGW") hereby propounds the following interrogatories and requests for documents upon the SBG Management Services, Inc. *et al.* ("SBG"), to be answered by those officers, employees or agents of SBG who may be cognizant of the requested information and who are authorized to answer on behalf of SBG. These interrogatories and requests for documents are propounded on a continuing basis so as to require you to submit supplemental answers and/or documents should additional information become known that would have been includable in your answers and document production had they been known or available or should information and/or documents supplied in the answers or production prove to be incorrect or incomplete. PGW reserves the right to propound additional interrogatories and to request additional documents as and if additional information is required. In accordance with 52 Pa. Code §§ 5.342(d) and 5.349(d), the interrogatories are to be answered in writing under oath and documents are to be furnished and served in-hand upon the undersigned within the time period prescribed by the Commission for this docket.

### ADDITIONAL INSTRUCTIONS

1. Unless otherwise indicated, the time period for all requests is 2008 to the present.
2. If you object to any part of an interrogatory or request, answer all parts of such interrogatories or requests to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.
3. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request for production or any part thereof, contained in a non-written communication, state the following with respect to the non-written communication:
  - (i) the date thereof;
  - (ii) the identity of each of the participants in the non-written communication;
  - (iii) the identity of each person present during all or any part of the non-written communication;
  - (iv) a description of the non-written communication which is sufficient to identify the particular communication without revealing the information for which a privilege or protection from non-disclosure is claimed;
  - (v) the nature of your claim of non-discoverability (e.g. attorney-client privilege); and
  - (vi) each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.
4. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to an interrogatory or request or any part thereof, contained in a document, set forth with respect to the document:

- (i) the date and number of pages;
- (ii) the identity of the author(s) or preparer(s);
- (iii) the identity of the addressee, if any;
- (iv) the title;
- (v) the type of tangible thing (e.g. letter, memorandum, telegram, chart, report,

recording disc);

(vi) the subject matter (without revealing the information as to which privilege or protection from non-disclosure is claimed);

(vii) the identity of each person who has received the document or to whom knowledge of the contents of the document was communicated;

(viii) the identity of the present custodian(s);

(ix) the nature of your claim of non-discoverability (e.g. attorney-client privilege); and

(x) each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

5. If you claim any form of privilege or other protection from disclosure, otherwise than as set forth in Instructions 3 and 4, as a ground for not answering any interrogatory or request or any part thereof, set forth:

(i) the nature of your claim as to non-discoverability; and

(ii) each and every fact on which you rest your claim or privilege or other protection from disclosure, stating such facts with sufficient specificity to permit PGW to make a full determination as to whether your claim is valid.

6. If you know of any document, communication or information but cannot give the specific information or the full information called for by a particular interrogatory or request, so state and give the best information you have on the subject and identify every person you believe to have the required information.

7. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa; the masculine form of a pronoun shall be considered to include also within its meaning the feminine and neuter forms of the pronoun, and vice versa; and the use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb. In each instance, the interrogatory or request shall be construed so as to require the most inclusive answer or production.

8. Please attach written material to any answer for which written material is requested and/or available. If such written material is not available, state where it may be obtained. Label the written material with the number of the interrogatory to which it pertains.

9. On each Interrogatory response list the name and title of the person or persons who prepared the response or who is responsible for the information contained therein.

## DEFINITIONS

As used in these Interrogatories and Requests for Production of Documents, the following terms have the meaning as set forth below:

1. The term "SBG" means the SBG Management Services, Inc. and any affiliate or subsidiary unless the context indicates otherwise including but not limited to Colonial Garden Realty Co., LP; Elrae Garden Realty Co., LP; Fairmount Manor Realty Co., LP; Fern Rock Realty Co., LP; Marchwood Realty Co., LP; Marshall Square Realty Co., LP; Oak Lane Court Realty Co., LP; and Simon Garden Realty Co., LP..

2. The term "you" means SBG and any agent or representative of SBG.

3. "List", "describe", "explain", "specify" or "state" means to set forth fully, in detail, and unambiguously each and every fact of which SBG or its agents or representatives have knowledge which is relevant to the answer called for by the interrogatory.

4. The terms "document" or "documents" as used herein has the same meaning and scope as in Rule 4009 of the Pennsylvania Rules of Civil Procedure and includes, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, directions, studies, investigations, questionnaires and surveys, inspections, permits, citizen complaints, papers, files, books, manuals, instructions, records, pamphlets, forms, contracts, contract amendments or supplements, contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices, confirmations, telegrams, communications sent or received, print-outs, diary entries,

calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations, ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes, transcripts, logs, workpapers, minutes, summaries, notations and records of any sort (printed, recorded or otherwise) of any oral communication whether sent or received or neither, and other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media that:

- (a) are now or were formerly in your possession, custody or control; or
- (b) are known or believed to be responsive to these interrogatories, regardless of who

has or formerly had custody, possession or control.

5. The term "date" means the exact day, month and year, if ascertainable, or if not, the best approximation thereof, including relationship to other events.

6. The term "person" or "persons" means and includes any individual, committee, task force, division, department, company, contractor, state, federal or local government agency, corporation, firm, association, partnership, joint venture or any other business or legal entity.

7. The terms "identify" and "identity" when used with reference to a natural person mean to state his or her full name, present or last known address, present or last known telephone number, present or last known place of employment, position or business affiliation, his or her position or business affiliation at the time in question, and a general description of the business in which he or she is engaged.

8. The terms "identify" and "identity" when used with respect to any other entity mean to state its full name, the address of its principal place of business and the name of its chief executive officers.

9. The terms "identify" and "identity" with respect to a document mean to state the name or title of the document, the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its present location, and its present custodian. If any such document was but is no longer in the possession of the SBG or subject to its control, state what disposition was made of it and explain the circumstances surrounding, and the authorization, for such disposition, and state the date or approximate date thereof.

10. The terms "identify" and "identity" with respect to any non-written communication mean to state the identity of the natural person(s) making and receiving the communication, their respective principals or employers at the time of the communication, the date, manner and place of the communication, and the topic or subject matter of the communication.

11. The term "oral communication" means any utterance heard, whether in person, by telephone, or otherwise.

12. The term "identify the sources" means to identify and specify all documents and non-written communications upon which you rely in support of the allegation, contention, conclusion, position or answer in question, to state the references drawn from each such source upon which you rely in support of such allegation, contention, conclusion, position or answer and to identify all individuals whom you know to be knowledgeable with respect to the subject matter of such allegation, contention, conclusion, position or answer. Where a source is a public record (e.g., a newspaper, trade journal, judicial or administrative opinion), a quotation and page reference of the material relied upon shall be supplied.

13. The term to “state the basis” for an allegation, contention, conclusion, position or answer means (a) to identify and specify the sources therefore, and (b) to identify and specify all facts on which you rely or intend to rely in support of the allegation, contention, conclusion, position or answer, and (c) to set forth and explain the nature and application to the relevant facts of all pertinent legal theories upon which you rely for your knowledge, information and/or belief that there are good grounds to support such allegation, contention, conclusion, position or answer.

14. The terms “and” and “or” have both conjunctive and disjunctive meanings as necessary to bring within the scope of the interrogatories and request any information or documents that might otherwise be construed to be outside their scope; “all” and “any” mean both “each” and “every”.

15. The terms “relates to” or “relating to” mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.

16. The term “including” means “including, but not limited to.”

17. The term “PUC Complaints” means any and all of the formal complaints filed with the Pennsylvania Public Utility Commission, including: SBG Management Services, Inc./Simon Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304324 and C-2015-2486642; SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304183 and C-2015-2486677; SBG Management Services, Inc./Elrea Garden Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304167 and C-2015-2486674; SBG Management Services, Inc./Fern Rock Gardens Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308465 and C-2015-2486670; SBG Management Services, Inc./Fairmont Manor Realty Co.,

L.P. v. PGW at Docket Nos. C-2012-2304215 and C-2015-2486664; SBG Management Services, Inc./Oak Lane Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308462 and C-2015-2486655; SBG Management Services, Inc./Marchwood Realty Co., L.P. v. PGW at Docket Nos. C-2012-2308454 and C-2015-2486648; and SBG Management Services, Inc./Marshall Square Realty Co., L.P. v. PGW at Docket Nos. C-2012-2304303 and C-2015-2486618.

## INTERROGATORIES

1. Identify all expert witnesses SBG expects to present on remand of the PUC Complaints.

For each expert witness:

- a. Provide each expert witness' name, address, employer, job title, job responsibilities, and curriculum vitae;

Christopher Hanson  
Director  
Grant Thornton LLP  
2001 Market Street  
Philadelphia, PA 19103

See attached CV

- b. Identify the subject matter of the written testimony each expert witness will provide on behalf of SBG;

Quantum of excess interest and interest penalties paid on utility billings and resulting lost income / excess costs incurred as a result of liens that were overstated or otherwise improper.

- c. Identify the date when SBG retained each expert for preparation of testimony in the PUC Complaints;

October 25, 2022

- d. Identify the method by which the expert will be compensated (i.e. flat fee, hourly or contingency);

Grant Thornton LLP will bill on an hourly time and materials basis. Chris Hanson is a salaried employee of Grant Thornton LLP, and his compensation is unrelated to any services performed.

- e. Identify all legal matters where each expert witness has provided testimony including date, jurisdiction, and subject matter;

- 2006: United States Bankruptcy Court, Eastern District of Washington; regarding the independent appraisals of a mixed portfolio of foreclosed commercial, residential, hotel and vacant land real estate assets
- 2006: Superior Court of State of Delaware; regarding the valuation of an insurance agency

- 2014; United States Bankruptcy Court for the District of Delaware: regarding an alleged breach of fiduciary responsibility and the value of a luxury vacation club's customer data and real estate assets
- 2018; International Institute for Conflict Prevention and Resolution: regarding international funds tracing, dissipation and misappropriation

f. For each expert witness, indicate whether the expert witness has provided testimony before the PA PUC or any other states' public utility regulator and, if so, identify all such proceedings and the subject matter of the testimony;

No

g. Fully describe each expert's particular experience with public utility operations and billing, if any;

Chris Hanson has provided fraud risk assessment services to a regional water utility. He has worked on multiple matters that involved gas/electric generation facilities.

h. Fully describe each expert's particular experience regarding municipal liens and judgments, if any.

Liens and judgments can be an issue which encumbers assets involved in transactions, disputes and restructurings

2. Identify all other witnesses SBG expects to present on remand of the PUC Complaints, if any. For each witness:

a. Provide each witness' name, address, employer, job title, job responsibilities, and curriculum vitae;

Philip Pulley, President of SBG Management/Representative of each entity PO Box 549 Abington PA 19001

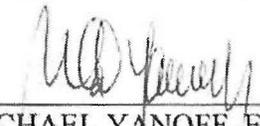
Eric Lampert, CPA CFO SBG Management PO Box 549 Abington, PA 19001

b. Identify the subject matter of the testimony each witness will provide on behalf of SBG.

Both witnesses will testify as to the billings received from PGW, the amounts paid to PGW and the damages caused by the improper calculations and billings made by PGW.

Respectfully submitted,

GOLDSTEIN LAW PARTNERS, LLC

BY:   
MICHAEL YANOFF, ESQUIRE

Dated: November 8, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SBG Management Services, Inc. <i>et al.</i>	:	C-2012-2304183
	:	C-2012-2304324
	:	C-2015-2486618
	:	C-2015-2486677
	:	C-2015-2486674
	:	C-2015-2486670
v.	:	C-2015-2486664
	:	C-2015-2486655
	:	C-2015-2486648
Philadelphia Gas Works	:	C-2015-2486674

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**CERTIFICATE OF SERVICE**

I, Michael Yanoff, Esquire, do hereby certify that on December 8, 2022, I served a true and correct copy of SBG MANAGEMENT SERVICES, INC. ET AL's Answers to PGW's interrogatories upon the following by email:

Daniel Clearfield, Esq.  
Carl R. Shultz, Esq.  
Bryce R. Beard, Esq.  
213 Market Street, 8<sup>th</sup> Fl  
Harrisburg, PA 17101

  
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MICHAEL YANOFF, ESQUIRE



Grant Thornton

## Christopher E. Hanson



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### **Director, Forensic Advisory Services**

Philadelphia, PA

T +1 215.701.8816

[chris.hanson@us.gt.com](mailto:chris.hanson@us.gt.com)

### **Experience**

Chris Hanson brings over twenty years of experience to client engagements primarily in the areas of expert testimony in commercial litigation, forensic investigations, financial advisory in restructurings and bankruptcies and special financial and economic analysis for corporate and governmental clients. Chris' engagements have occurred across a wide range of industries for organizations both small and large.

Chris' work in contested environments has included: forensic accounting and economics analyses; fraud investigations; fraud risk assessments; damages calculations; and complex data analytics and statistical analyses. Financial advisory work has included: economic and financial modeling; debtor consulting; workouts; creditor consulting; transaction-related issues; real estate and financial valuations; economic and market analysis and process and accounting control reviews.

Chris holds a Bachelor of Arts in Economics from the University of Pennsylvania and Master of Business Administration from the Wharton School at the University of Pennsylvania. Chris began his career in litigation consulting before moving to Arthur Andersen LLP's more diverse Economic and Forensic Consulting practice. Most recently before joining Grant Thornton, Chris was a director in Navigant Consulting, Inc.'s Disputes and Investigations practice.

### Industry experience

Aerospace/Defense  
 Automotive Manufacturing & Design  
 Banking, Credit Cards, Financial Services and  
 Asset-Backed Securities  
 Chemicals  
 Computer Hardware & Software  
 Consumer Electronics  
 Energy / Oil & Gas  
 Fashion Retailing  
 Food Processing, Wholesaling and Retailing  
 Healthcare Services and Pharmaceuticals  
 Insurance / Reinsurance  
 Information Services and Outsourcing

Manufacturing  
 Mining  
 Not For Profits  
 Professional Services  
 Professional Sports, Sports and Public Facilities  
 Real Estate and REITs  
 Retailing, Wholesale Distribution and Dealerships  
 Specialty Steel Manufacturing  
 Telecommunications and Cable Services  
 Water and Electric Utilities / Landfills / Co-  
 generation Facilities  
 Vacation Properties and Hospitality

### Representative Experience

#### Forensic Analysis:

- Acted as arbitrator in a dispute between a spin-off and former parent company related to natural gas and cogeneration energy charges under a shared services agreement for an 850+ acre diversified industrial chemicals manufacturing facility in Belgium.
- Analyzed the but-for operating feasibility of a large oil refinery that closed due to a fire shortly before the COVID-19 pandemic affected the global oil & gas industry as part of the review of a more than \$2 billion business interruption claim. Reviewed the financial condition of the company at times leading up to the fire, market conditions before and through the pandemic, investor perspectives on the industry and the company's ability to raise external capital to fund operations.
- Supported an insurance claim by performing a detailed cost accounting review and damages analysis to identify increased operating costs and lost profits experienced by a global chemical supplier after a fire crippled significant portions of a manufacturing facility, resulting in lost sales, inefficient production at alternate facilities and outsourced production to meet customer obligations, in addition to the out-of-pocket costs to manage and repair the facility.
- Provided court testimony regarding the quantum of alleged damages to goodwill and intangible assets suffered by an estate due to the alleged sale of customer list access in a breach of fiduciary responsibility action against former executives of a publicly traded luxury vacation club in bankruptcy.
- Acted as arbitrator in a post-acquisition dispute regarding a working capital adjustment to the purchase price for an aeroderivative gas turbine electric generation facility.
- Provided testimony regarding the disposition of \$12.5 million in misappropriated funds through analysis of eight years of financial records across more than 20 bank accounts held by multiple legal entities.
- Quantified damages to a Middle Eastern credit card issuer and merchant acquirer related to the termination of its license with a major credit card brand. Also quantified reputational damages to the credit card brand based on the actions and poor service record of the local issuer and acquirer.

- Lead the investigation of a \$600 million automotive supplier's manufacturing processes, data and accounting records to identify the source of inventory variances and persistent errors seen during monthly closing processes.
- Lead the analysis of losses and business recovery on multiple ransomware attacks in several different industries.
- Constructed a financial model to value a South African automotive interiors manufacturing plant under several different operating and market conditions. The models were designed to support a \$50 million breach of contract / theft of intellectual property claim filed in arbitration proceedings in the International Chamber of Commerce, Paris France.
- Analyzed the operations of a financially burdened \$400 million wholesale grocery distribution company and constructed a financial projection model.
- Quantified breach of contract damages in a supply agreement for wholesale industrial components including consideration of individual SKUs, automatic pricing adjustments and minimum purchase volumes.
- Investigated accounting misstatements at a Fortune 200 global information technology services company and have presented findings on causes and remediation steps directly to the SEC. The largest misstatements related to the timing of adjustments on large systems development projects in the public sector as costs increased and contracts were modified.
- Quantified the potential market for a new armor-plating and concrete reinforcement technology and the increased cost attributable to a breached supply contract.
- Performed due diligence on a large medical device and clinical services company for a syndicate of lenders underwriting a new \$250 million loan facility. The borrower was emerging from multiple to inventory and revenue recognition accounting restatements while also restructuring corporate and clinical operations with significant changes in personnel, multiple IT and accounting systems and supply chain management.
- Assisted an SEC registrant in restating financial statements after revelation of potentially inappropriate stock option grants along with misstated balance sheet reserves and software revenue recognition. Option investigation included reviewing each grant, assessing the accounting implications of information regarding individual grants as it became available and based on evolving guidance from regulatory agencies; and providing analytical support during discussions with SEC accounting and enforcement staff. Also investigated and quantified the large tax implications and payment obligations to both employer and employees related to the backdating. Reserves and software revenue restatement involved detailed review of the documentation supporting eleven years of the company's pre-restatement financial statements and hundreds of customer contracts. Correction required accounting systems revisions and a large-scale restatement of revenues.
- Lead the fraud risk assessment / data analytics review for a regional potable water/wastewater utility.
- Quantified losses related to the deformation and failure of reaction vessels used in a chemical manufacturing process from lost production capacity, inefficient production runs and costs to replace the reaction vessels and related equipment.

- Assisted several reinsurers in assessing compliance with GAAP regarding the transfer of risk in response to SEC inquiries. Reviewed many contracts to model risk transfer and reviewed underwriting files to assess any side agreements and determine the extent of modification to produce accounting outcomes.
- Quantified damages due both shareholders and noteholders in a securities litigation matter brought against a failed multinational consumer electronics firm. Work included both a causation analysis of the firm's difficulties and a quantification of damages based on an event study and statistical analysis of trading behavior and market reactions to allegedly misstated information disclosed by the firm.
- Lead and provided testimony regarding the re-appraisal of a portfolio of troubled real estate assets held by an insurance company under supervision and in litigation with related legal entities. The portfolio included single and multi-family residential, retail, commercial, industrial, lodging, vacant land and major planned community properties throughout the United States.
- Performed multiple valuations of a start-up wireless telecommunications engineering firm to quantify the value of various partners' equity stakes at different points in time and the corresponding damages related to a subsequent buy-out agreement.
- Quantified lost profits, unjust enrichment and reasonable royalty damages to a manufacturer of personal ballistic protective systems.
- Quantified lost profits to a real estate developer in a breach of contract action related to a planned \$1.2 billion multi-phased, residential community that was never built.
- Analyzed lost occupancy at several hotels. Damages related to, in one case, an alleged breach of fiduciary duty to prevent competitive development, and in another, from diminished water pressure and negative publicity from Legionnaire's Disease outbreaks. Statistical models were used to investigate the effects of the development of new hotels and economic and demographic trends in the region over a ten-year period.
- Quantified rescission damages due to the breach of fiduciary responsibility by officers of a real estate investment trust (REIT) who directed investments in partnerships owning portfolios of retail properties.
- Analyzed damages alleged in a post-acquisition dispute related to a \$12 billion credit card portfolio and related assets and personnel. Made extensive review of the closing balance sheet and developed damage theories and supporting analyses for counterclaims based on actions subsequent to the close.

#### **Financial Advisory:**

- Acted as financial advisor supporting the turnaround of a bankrupt specialty steel manufacturer. Constructed the financial projection model to support contract negotiations and the eventual sale of the company.
- Presented research on the employment and economic activity associated with the construction of four new professional sports stadiums in Pennsylvania. Initial models were used to secure Commonwealth funding for development in both Pittsburgh and Philadelphia. Later financial models were

- used to explore the fiscal impact of two new stadiums in Philadelphia and in general the feasibility of various development scenarios, changes in tax laws, financing mechanisms and arrangements.
- Constructed a business plan and debt restructuring plan for a \$50 million regional healthcare provider.
  - Developed market research, visitation estimates, facility benchmarks and business plan for a major new indoor ski resort, waterpark and sports academy. The proposed \$800 million facility would represent the first indoor ski area in the United States and the first sports-oriented entertainment complex of its type.
  - Served as financial advisor to a debtor in the specialty chemicals industry by analyzing restructuring alternatives and likely outcomes as the company faced an extended period of depressed demand for its oilfield products, increasing competition, significant fines, large civil litigation exposure and exhausted debt facilities.
  - Developed market research, visitation estimates, facility benchmarks and a business plan for the National Constitution Center, a new U.S. Constitution museum in Philadelphia.
  - Served as financial advisor to the equity committee of a large gold and silver mine by assessing the debtors' existing operations and plans of reorganization, along with modeling multiple valuation and reorganization scenarios in support of successful negotiations to provide existing equity holders a stake in the upside performance of the reorganized company.
  - Constructed a cash flows model for a net interest margin securitization of a multi-billion dollar portfolio of mortgage-backed securities. The model was designed to test stress scenarios on 25 series of bonds simultaneously.
  - Valued an under-performing, personal auto insurance book-of-business with 150,000 policies. Presented various divestiture scenarios and earnout clause strategies to management.
  - Served as financial advisor to the largest unsecured creditor in a large coal mining bankruptcy helping to substantially preserve the approximately \$1 billion claim in the reorganization plan while other unsecured creditors experienced much lower recoveries. The engagement included: assessing fraudulent transfer and evade and avoid causes of action, critiquing management incentive plans and Section 1113/1114 motions, reviewing the debtor's financial forecast and reorganization plans, investigating environmental liabilities and their quantum, modeling creditor recovery scenarios and interacting with debtor, committee and other creditors' financial advisors.
  - Compiled market composition data and performed analysis of the merger of two of the United States largest landfilling companies as part of a response to a Department of Justice antitrust investigation.
  - Constructed financial model and plan to forecast operations of a paper recycling facility and re-negotiate terms with the facility's bondholder.
  - Presented divestiture scenarios for a \$100 million automotive design and engineering division for consideration by the Board of Directors.

Researched the feasibility of purchasing and reopening a bankrupt ski resort in Southern Vermont for a private real estate developer and prepared a report for use in a private placement memorandum. An analysis was made of the relevant market including the identification of the resort's niche within the market, the resort's closest competitors and market strengths and weaknesses. The study identified operating benchmarks for the resort once re-opened and potential additional developments for the resort to immediately enhance cash flow and longer-term major capital projects to expand the draw of

the resort and increase investor return on investment.

- Constructed a detailed, store-level, financial model of a bankrupt \$1 billion home furnishings retailer for use in restructuring planning.
- Reviewed the reasonableness of contemporaneous cash flow estimates and related income recognition for a multi-billion dollar portfolio of mortgage backed securities after the 2008 real estate crisis.