

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**FEDERAL TRADE COMMISSION,**

**Plaintiff,**

v.

**EMPIRE HOLDINGS GROUP LLC d/b/a  
ECOMMERCE EMPIRE BUILDERS d/b/a  
STOREFUNNELS.NET and PETER  
PRUSINOWSKI,**

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**Defendants.**

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: **Civil Action**  
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: **No. 2:24-cv-04949-WB**  
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**RECEIVER’S RESPONSE TO DEFENDANTS’  
MOTION AND MEMORANDUM FOR FEES INCURRED TO DATE, AND  
ADDITIONAL FEES TO CONTINUE TO DEFEND OR, IN THE ALTERNATIVE,  
TO WITHDRAW AS COUNSEL OF RECORD**

The Receiver, Kevin Dooley Kent, by and through his counsel, hereby responds to Defendants’ Motion and Memorandum for Fees Incurred to Date, and Additional Fees to Continue to Defend Or, in the Alternative, to Withdraw as Counsel of Record (ECF No. 35) (“Motion for Attorney’s Fees”) for the limited purpose of addressing Gordon Rees Scully Mansukhani LLP’s (“Gordon Rees”) continued possession of, and asserted retaining lien on, a \$400,000.00 retainer paid by Receivership Entity Atlas Fund Limited Partnership (“Atlas Fund”). The Receiver takes no formal position with respect to whether Defendants should be granted relief from the asset freeze to fund their defense from assets derived independently from the operations of Defendant Empire Holdings Group LLC (“EEB”); however, the Receiver respectfully submits that Atlas Fund’s assets should be returned to the Receiver, and that to the extent fees are permitted, they should come from assets derived from sources other than the business operations of the Receivership Entities.

## I. FACTUAL HISTORY

After being served with notice of this action but presumably before the September 20, 2024 Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief (ECF No. 19) (the “TRO Order”) was entered, Defendant Peter Prusinowski caused a total of \$477,000 in soon-to-be-frozen funds to be transferred to Gordon Rees as payment for their retention and representation as counsel for Defendants in this matter. Specifically, EEB transferred \$77,000.00 to Gordon Rees on September 19 and 20, 2024, and Atlas Fund paid the remaining \$400,000.00 to Gordon Rees on September 19, 2024. Gordon Rees thereafter transferred \$77,000.00 to the Receivership Account on October 7, 2024.<sup>1</sup>

While Defendants assert that Atlas Fund is “a partnership in which Mr. Prusinowski and his wife own two percent and serve as general partners,” ECF No. 35 at 5, Atlas Fund’s corporate documents indicate that Mr. Prusinowski is its sole general partner, and that the remaining 98% of Atlas Fund is owned by Atlas Fund Trust (“Atlas Trust”), which received its ownership interest in Atlas Fund, plus \$10.00 cash, without any consideration.<sup>2</sup> *See* Receiver’s October 14, 2024 letter identifying the Atlas Entities as Receivership Entities, attached hereto as Exhibit A. Mr. Prusinowski and his wife are both the Trustees (*i.e.*, controllers) and Settlers (*i.e.*, beneficiaries) of Atlas Trust. *See id.* at 2. Thus, in reality, Mr. Prusinowski has full ownership and/or control over Atlas Fund. *See id.*

On October 14, 2024, the Receiver identified Atlas Fund and Atlas Trust, along with Atlas Fund Land Trust (“Atlas Land”) (collectively, “Atlas Entities”) as Receivership Entities pursuant to Section XII, Paragraph U of the TRO Order. *See* Ex. A. The only response Defendants provided

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<sup>1</sup> The Motion for Attorney’s Fees states that EEB transferred the \$77,000 to Gordon Rees on September 19, 2024 and September 20, 2024, but does not specify whether the September 20 transfer of funds occurred before or after the entry of the TRO Order. Nonetheless, since these funds have been returned to the Receivership Account, any potential technical violation of the TRO Order has since been cured through the return of these funds to the Receivership Account.

<sup>2</sup> Atlas Trust is a Probate Avoidance/Asset Preservation bridge trust established around the same time as Atlas Fund.

was an October 16, 2024 letter that Gordon Rees sent to the Receiver's counsel, advising that Gordon Rees is asserting a retaining lien as to \$231,358.50 held in its trust account for attorney's fees incurred to date. A copy of Gordon Rees' October 16 letter is attached hereto as Exhibit B.

In its Motion for Attorney's Fees, Gordon Rees asserts that Mr. Prusinowski has "incurred \$231,358.50 in reasonable attorney's fees and costs since September 18, 2024." ECF No. 35 at 5. The Motion for Attorney's Fees further requests an additional \$150,000.00 for Gordon Rees' continued representation of Defendants. *See id.* at 7. However, the Receiver has been advised that Defendants have secured replacement counsel, Greg Christiansen at Guardian Law and Philip Martin at Vallis Legal, to represent them going forward, and that their representation has been secured with resources provided by others. Thus, even accounting for any unadjudicated claim for fees incurred, there is no colorable claim to the \$168,641.50 balance remaining in Gordon Rees's trust/IOLTA account for future attorney's fees, and those funds should be immediately transferred to the Receivership Account. Even with respect to the \$231,358.50 in fees that Defendants claim have already been incurred, *all* funds held by Gordon Rees should be transferred to and held in the Receivership Account, unless and until a ruling is made by this Court entitling Defendants to the payment of attorney's fees sourced from Receivership Assets.

## **II. LEGAL ARGUMENT**

The Receiver respectfully submits that all \$400,000 held in Gordon Rees's trust/IOLTA should be immediately transferred to the Receivership Account, and that those funds should be held in the Receivership Account unless and until this Court enters an order authorizing the release of Receivership Assets for the payment of Defendants' attorney's fees. The Receiver's position is based upon the following grounds:

*First*, even before Atlas Fund was identified as a Receivership Entity, its assets were subject to the asset freeze imposed by the TRO Order. The TRO Order prohibits “Defendants and their officers, agents, employees, and attorneys and all other persons in active con[c]ert or participation with any of them, who receive actual notice of” the TRO Order, from “transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any Assets” that are owned or controlled by, held for the benefit of, or in the actual or constructive possession of, any Defendant or “any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed, or controlled by any Defendant.” TRO Order § III ¶ A. The assets of Atlas Fund fall squarely within this asset freeze, and had Defendants not arranged for payment of these assets to Gordon Rees before the TRO Order was entered, the TRO Order would have forbidden them from doing so.

*Second*, any business entity on notice of the TRO Order—including Gordon Rees—which has held, controlled, or maintained custody of “any Asset that has been owned or controlled, directly or indirectly by any Defendant; held, in part or in whole, for the benefit of any Defendant; in the actual or constructive possession of any Defendant or owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant” is required to “[h]old, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assigning, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such . . . Asset, . . . except by further order of this Court.” *Id.* § IV ¶ A. Thus, the TRO Order does not permit entities like

Gordon Rees to unilaterally encumber funds with a retaining lien, without first obtaining permission from the Court to do so.

**Third**, now that the Receiver has named Atlas Fund as a Receivership Entity, all Atlas Fund assets—including those held in Gordon Rees’s trust/IOLTA account—must be immediately transferred to the Receivership Account pursuant to numerous provisions in the TRO Order. Section XIII, Paragraph A of the TRO Order provides that Defendants and “any other person with possession, custody, or control of property of . . . the Receivership Entities” and with notice of the Order are required to “fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Assets . . . of the Receivership Entities and immediately transfer or deliver to the Receiver possession, custody or control of . . . [a]ll assets held by or for the benefit of the Receivership Entities.” Section XV provides that Defendants and the Receivership Entities, and their “officers, agents, employees, and attorneys” are required to “fully cooperate with and assist the Receiver” including transferring funds at the Receiver’s direction.” Finally, Section XVI, Paragraph A restrains and enjoins Defendants and the Receivership Entities, and their officers, agents, employees, and attorneys, from “[i]nterfering with the Receiver’s efforts to manage, or take custody, control, or possession of, the Assets . . . subject to the receivership.” Thus, allowing Gordon Rees to continue to hold these Assets, which belong to the Receivership Estate, would be inconsistent with the provisions of the TRO Order.

**Fourth**, allowing Gordon Rees to assert a retaining lien over funds held in its escrow/IOLTA account—sourced from Receivership Entity Atlas Fund—would be inconsistent with the provisions of the TRO Order relating to Non-Interference with the Receiver and the Stay of Actions. *See* TRO Order § XVI ¶ C (providing that Defendants and the Receivership Entities, and their officers, agents, employees, and attorneys, are restrained and enjoined from

“[t]ransferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Entities”); § XVII ¶ C (providing that “except by leave of this Court,” during the pendency of the TRO, Defendants and their officers, agents, employees, and attorneys, are “enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the Assets . . . of the Receivership Entities, including, but not limited to . . . [f]iling or enforcing any lien on any asset of the Receivership Entities; taking or attempting to take possession, custody, or control of any Asset of the Receivership Entities; or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of the Receivership Entities, whether such acts are part of a judicial proceeding, acts of self-help, or otherwise”).

*Fifth*, absent an order specifically directing the Receiver to transfer certain Receivership Assets to/for the benefit of Defendants to fund their defense, allowing Gordon Rees to retain these funds creates policy and enforcement challenges across the board. There are numerous creditors/possessors of Receivership Assets who have failed to comply with the TRO Order in various ways, including by attempting to assert liens/security interests and/or refusing to transfer and/or drawing from Receivership Assets, and whose conduct the Receiver is currently challenging. *See, e.g.*, ECF No. 38 at 9, 13-15. Allowing Gordon Rees to hold these funds (including past attorney’s fees) is inconsistent with the terms of the TRO Order in that it effectively allows them to avoid participating in any future creditor claims process and sets harmful precedent with respect to non-compliant entities whose conduct the Receiver will likely challenge before the Court in the near future, if the disputes as to their conduct cannot be resolved.

*Sixth*, to the extent the Court is inclined to allow the release of funds notwithstanding the asset freeze for the payment of attorney’s fees, those funds should be derived from sources that

Defendants establish are unrelated to the business operations of EEB, and should not be sourced from Receivership Assets.

### III. CONCLUSION

Based on all the foregoing, the Receiver respectfully requests that the Court order all \$400,000.00 paid by Atlas Fund to Gordon Rees, which is currently held in the Gordon Rees Trust/IOLTA Account, to be transferred to the Receivership Account in full, and that such funds shall remain in the Receivership Account unless and until the Court enters an Order directing the release of such funds for the payment of attorney's fees on behalf of Defendants. However, to the extent fees are permitted, the Receiver submits that those fees should be sourced from assets that Defendants establish are not derived from the business operations of the Receivership Entities.

Respectfully Submitted,

Dated: October 25, 2024

*/s/ Robin S. Weiss*

**CLARK HILL PLC**

Robin S. Weiss, Esquire

Vanessa L. Huber, Esquire

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*Attorneys for Receiver, Kevin Dooley Kent*

# **Exhibit A**



Robin S. Weiss  
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F (215) 523-9714  
Email: [rsw Weiss@ClarkHill.com](mailto:rsw Weiss@ClarkHill.com)

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Two Commerce Square  
2001 Market Street, Suite 2620  
Philadelphia, PA 19103  
T (215) 640-8500  
F (215) 640-8501

October 14, 2024

**VIA ELECTRONIC MAIL**

Peter Prusinowski & Empire Holdings Group, LLC  
Atlas Fund Trust  
Atlas Fund Limited Partnership  
Atlas Fund Land Trust  
c/o Counsel:  
Ryan M. Poteet, Esq. ([rpoteet@grsm.com](mailto:rpoteet@grsm.com))  
Stephen Freeland, Esq. ([sfreeland@grsm.com](mailto:sfreeland@grsm.com))  
Clair Wischusen, Esq. ([cwischusen@grsm.com](mailto:cwischusen@grsm.com))  
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Philip Martin, Esq. ([philip@vallislegal.com](mailto:philip@vallislegal.com))

**VIA FIRST CLASS MAIL**

Atlas Fund Limited Partnership  
Atlas Fund Trust  
Atlas Fund Land Trust  
c/o Lodmell & Lodmell, P.C.  
8160 E. Butherus Suite 4  
Scottsdale, AZ 85258

**Re: *FTC v. Empire Holdings Group, LLC, et al.*, No. 2:24-cv-04949-WB  
Addition of Atlas Fund Limited Partnership, Atlas Fund Trust, and Atlas  
Fund Land Trust as Receivership Entities**

Dear Counsel/To Whom It May Concern:

Pursuant to Section XII, Paragraph U of the Temporary Restraining Order with Asset Freeze and Appointment of Temporary Receiver ("TRO Order"), a copy of which is enclosed, please be advised that the Receiver hereby identifies Atlas Fund Limited Partnership ("Atlas Fund"), Atlas Fund Trust ("Atlas Trust") and Atlas Fund Land Trust ("Atlas Land") as Receivership Entities.

Receivership Entities are defined in the TRO Order to include the "Corporate Defendant as well as **any other entity that has** conducted any business related to the advertising, marketing, and sale of Defendants' Products and Services, **including receipt of Assets derived from any activity that is the subject of the Complaint in this matter**, and that the Receiver determines is **controlled or owned by any Defendant.**" TRO Order, Definitions (J) (emphasis added). Based upon information that Defendants have provided to the Receiver in this matter, Atlas Fund, Atlas Trust, and Atlas Land all qualify as Receivership Entities for the following reasons:

First, Atlas Fund, Atlas Trust, and Atlas Land are all owned and controlled by Defendant Peter Prusinowski. Atlas Fund was created in or around March 2021 and formally recognized as an Arizona limited partnership on or about March 26, 2021. Atlas Trust is a Probate

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Avoidance/Asset Preservation bridge trust established on or about April 2, 2021. Atlas Land is a revocable trust created on or about April 2, 2021 to receive the transfer of land, to protect and conserve financial resources for the use, benefit and enjoyment of its beneficiaries.

According to these entities' corporate and formation documents, Peter Prusinowski is the General Partner of Atlas Fund,<sup>1</sup> with an ownership interest of 1%. Meanwhile, Kellie E. Prusinowski is a limited partner with a 1% ownership interest, and Atlas Trust is a limited partner that owns the remaining 98% of Atlas Fund. Atlas Trust was given \$10 in cash and a 98% ownership in Atlas Fund without any consideration. Peter P. Prusinowski and Kellie E. Prusinowski are both the Trustees (*i.e.*, controllers) and Settlers (*i.e.*, beneficiaries) of both Atlas Trust and Atlas Land. Given all the foregoing, Defendant Peter Prusinowski owns and/or controls Atlas Fund, Atlas Trust, and Atlas Land.

Second, these entities have received (or were at least the beneficiaries of) assets derived from the business activities of Corporate Defendant Empire Holdings Group LLC ("Empire") that is the subject of the FTC's Complaint.

Atlas Fund, Atlas Trust, and Atlas Land were all created and formed by the law firm Lodmell & Lodmell, P.C. ("Lodmell"). Lodmell's own website<sup>2</sup> makes clear that it is an asset protection law firm focused on removing the economic incentives for others to pursue claims against its clients. In essence, Lodmell was retained by Peter Prusinowski to protect his and Kellie Prusinowski's assets through the creation of the Atlas Fund, Atlas Trust, and Atlas Land. **Notably, however, Empire paid the legal fees associated with the creation of these entities.** According to Empire's General Ledger, Empire paid \$26,100 in attorney's fees to Lodmell on March 11, 2021. This expense was paid through an Empire American Express card (x91008), and then paid off by Empire's TD Bank Account (x9912) on March 15, 2021.<sup>3</sup> Additionally, in July 2024, the Empire Charles Schwab brokerage account (x6812) sent \$25,000 to the Atlas Fund Charles Schwab brokerage account (x7109).<sup>4</sup>

Further, Peter Prusinowski has confirmed that Atlas Fund was funded primarily through his personal paycheck from Empire and from the conversion of credit card points. Peter Prusinowski's paychecks are derived directly from the "advertising, marketing, and sale of Defendants' Products and Services,"<sup>5</sup> and presumably, the credit card points were earned from Empire's payment of credit card bills.

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<sup>1</sup> Peter Prusinowski also oversees Atlas' investment portfolio with Charles Schwab and thus has control over its assets.

<sup>2</sup> <https://www.lodmell.com/>.

<sup>3</sup> Empire's General Ledger shows additional payments to Lodmell, presumably for continued services to Atlas Fund, Atlas Trust, and/or Atlas Fund—possibly for continued registered agent services—including a \$2,100 payment on March 1, 2022, a \$2,100 payment on February 28, 2023, a \$500 payment on November 30, 2023, and a \$2,100 payment on March 12, 2024.

<sup>4</sup> Peter Prusinowski estimates that there may have been a \$100,000 transfer from Empire to Atlas Fund a few months ago in connection with a previous attempted sale of Empire, though the Receiver has not yet been able to identify this transfer in the available records.

<sup>5</sup> TRO Order, Definitions (J).

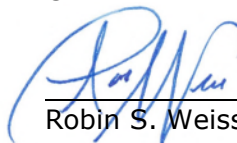
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Given all of the foregoing, Atlas Fund, Atlas Trust, and Atlas Land received assets derived from activities that are the subject of the Complaint, and they are thus Receivership Entities.

If you wish to challenge the Receiver's determination in this regard, you can file a motion with the Court.

Sincerely,

CLARK HILL



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Robin S. Weiss

RSW:

cc: Kevin Dooley Kent, Esq., Receiver  
Vanessa L. Huber, Esq.  
Amanda Grier, Esq.  
Ryan McAuliffe, Esq.

# **Exhibit B**

STEPHEN R. FREELAND, ESQ.  
[SFREELAND@GRSM.COM](mailto:SFREELAND@GRSM.COM)  
DIRECT DIAL: (301) 404-1077



October 16, 2024

**VIA E-MAIL**

Kevin Dooley Kent, Esq.  
Robin S. Weiss, Esq.  
Clark Hill PLLC  
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**Re: *FTC v. Empire Holdings Group, LLC, et al.*, GRSM Notice of Retaining Lien**

Dear Kevin and Robin:

Please be advised that GRSM has a retaining lien as to \$231,358.50 now held in GRSM's trust account, which amount represents attorney's fees incurred to date in connection with the above-referenced matter. *See Smyth v. Fidelity & Deposit Co.*, 190 A. 398, *aff'd*, 192 A. 640 (Pa. 1937) ("right of an attorney to ... deduct his fees out of money which he has in his hands belonging to his client, and pay over the balance, is well recognized and enforced in Pennsylvania.") (collecting cases); *Berger Realty Group, Inc. v. Pullman*, 1986 WL 7418, \*1 (E.D. Pa. June 25, 1986) ("A retaining lien is a common law lien of an attorney recognized under Pennsylvania law which attaches to all property, papers, documents and monies of the client coming into the attorney's hands during the course of his employment as security for fees and expenses due the attorney in connection with the professional relationship between attorney and client.") (citing *In re Professional Hockey Antitrust Litig.*, 371 F. Supp. 742, 747 (E.D. Pa. 1974)).

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. Freeland".

Stephen R. Freeland

cc: Greg Christiansen, Esq.  
Philip Martin, Esq.  
Amanda Grier, Esq.  
Ryan McAuliffe, Esq.

**CERTIFICATE OF SERVICE**

I certify that on the date set forth below, the foregoing was electronically filed pursuant to the Court's ECF system and that the documents are available for downloading and viewing by counsel of record from the Court's ECF system.

Dated: 10/25/2024

**CLARK HILL PLC**

*/s/ Robin S. Weiss* \_\_\_\_\_

Robin S. Weiss, Esquire

*Attorney for Receiver, Kevin Dooley Kent*