

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case Nos. 79425 and 79526

ATHANASIOS SKARPELOS, AN INDIVIDUAL

Appellants,

v.

WEISER ASSET MANAGEMENT, LTD., A BAHAMAS COMPANY AND
WEISER (BAHAMAS) LTD., A BAHAMAS COMPANY,

Respondents.

WEISER ASSET MANAGEMENT, LTD., A BAHAMAS COMPANY AND
WEISER (BAHAMAS) LTD., A BAHAMAS COMPANY

Appellants,

v.

ATHANASIOS SKARPELOS, AN INDIVIDUAL,

Respondent.

Appeal from the Judgment of the Second Judicial District Court, Washoe County
District Court Case No.: CV15-02259
Second Judicial District Court of the State of Nevada
In and For the County of Washoe

**JOINT APPENDIX
VOLUME 1**

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(Bahamas) Ltd., A Bahamas Company*

CHRONOLOGICAL INDEX TO APPENDIX

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Complaint	11/18/2015	1	JA0001- JA0012
Acceptance of Service (Murtha)	1/28/2016	1	JA0013- JA0015
Acceptance of Service (Nork)	1/28/2016	1	JA0016- JA0018
Answer to Complaint and Cross-Claim (Defendant Cross-Claimant Skarpelos)	2/18/2016	1	JA0019- JA0029
Amended Complaint	4/29/2016	1	JA0030- JA0042
Consent to File Amended Complaint	4/29/2016	1	JA0043- JA0045
Answer to Amended Complaint and Cross-Claim (By Defendant Skarpelos)	5/23/2016	1	JA0046- JA0057
Weiser's Answer and Cross Claim	5/24/2016	1	JA0058- JA0070
Weiser's Answer to Skarpelos' Cross- Claim	6/15/2016	1	JA0071- JA0074
Skarpelos' Answer to Weiser's Cross- Claim	6/17/2016	1	JA0075- JA0081
Joint Case Management Report	8/23/2016	1	JA0082- JA0095

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Pretrial Order	3/31/2017	1	JA0096- JA0105
Motion to Compel	7/28/2017	1	JA0106- JA0133
Weiser's Opposition to Motion to Compel	8/14/2017	1	JA0134- JA0137
Reply in Support of Motion to Compel	8/21/2017	1	JA0138- JA0144
Recommendation for Order	10/31/2017	1	JA0145- JA0157
Confirming Order	11/17/2017	1	JA0158- JA0159
Athanasios Skarpelos' Motion for Summary Judgment	3/12/2018	1; 2	JA0160- 210; JA0211- JA0248
Affidavit of John Murtha in Support of Motion for Summary Judgment	3/12/2018	2	JA0249- JA0253
Affidavit of Athanasios Skarpelos in Support of Motion for Summary Judgment	3/12/2018	2	JA0254- JA0277
Athanasios Skarpelos' Motion in Limine	3/21/2018	2	JA0278- JA0348
Affidavit of John F. Murtha In Support of Motion in Limine	3/21/2018	2	JA0349- JA0352

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Weiser's Opposition to Skarpelos' Motion in Limine	4/12/2018	2; 3	JA0353- JA0420; JA0421- 0465
Weiser's Opposition to Skarpelos' Motion for Summary Judgment	4/12/2018	3	JA0466- JA0583
Athanasios Skarpelos' Reply in Support of Motion for Summary Judgment	4/27/2018	3	JA0584- JA0596
Affidavit of John F. Murtha In Support of Skarpelos' Reply in Support of Motion for Summary Judgment	4/27/2018	3	JA0597- JA0602
Athanasios Skarpelos' Reply in Support of Motion in Limine	4/27/2018	3	JA0603- JA0607
Order Denying Athanasios Skarpelos' Motion for Summary Judgment	6/21/2018	3	JA0608- JA0615
Order Denying Skarpelos' Motion in Limine	6/29/2018	3	JA0616- JA0622
Defendant Cross-Claimant Athanasios Skarpelos' Pretrial Disclosures	12/21/2018	3	JA0623- JA0626
Defendant Cross-Claimants Weiser's Pretrial Disclosures	12/31/2018	3	JA0627- JA0629
Skarpelos' Objections to Weiser's Pretrial Disclosures	1/11/2019	4	JA0630- JA0635
Defendants Cross-Claimants Weser's Trial Statement	1/23/2019	4	JA0636- JA0658

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Defendant Cross-Claimant Athanasios Skarpelos' Trial Statement	1/23/2019	4	JA0659- JA0713
Order Granting Motion for Discharge	1/23/2019	4	JA0714- JA0716
Deposition of Christos Livadas Dated 10/23/2018	1/28/2019	4; 5; 6	JA0717- JA0840; JA841- 1050; JA1051- JA1134
Trial Exhibit 1, Anavex Life Sciences Corp. Share Certificate 0753 for 6,633,332 shares (WEISER000281)	1/28/2019	6	JA1135- JA1136
Trial Exhibit 2, WAM New Account Opening Form (WEISER000352-361)	1/28/2019	6	JA1137- JA1147
Trial Exhibit 3, Letter dated October 30, 2015 from Montello Law Firm to NATCO (WEISER000002-WEISER000003)	1/28/2019	6	JA1148- JA1150
Trial Exhibit 7, 05/30/2011 Email between Athanasios Skarpelos and Howard Daniels re Courier Address for WAM, Ltd. (S000006)	1/28/2019	6	JA1151- JA1152
Trial Exhibit 8, 05/31/2011 Skarpelos Identify Verification Form with Supporting Documents (WEISER000362-WEISER000367)	1/28/2019	6	JA1153- JA1159

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 13, 1/10/2013 Corporate Indemnity to Nevada Agency and Transfer Company to Reissuance of Lost Certificate (S000007)	1/28/2019	6	JA1160- JA1161
Trial Exhibit 14, 3/28/2013 Athanasios Skarpelos Affidavit for Lost Stock Certificate (S000008-S000009)	1/28/2019	6	JA1162- JA1164
Trial Exhibit 15, 3/29/2013 Athanasios Skarpelos Stop Transfer Order (S000010)	1/28/2019	6	JA1165- JA1166
Trial Exhibit 16, 4/4/2013 NATCO Transfer (S000011)	1/28/2019	6	JA1167- JA1168
Trial Exhibit 20, 5/24/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000340)	1/28/2019	6	JA1169- JA1170
Trial Exhibit 21, 06/24/2013 Email Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000012)	1/28/2019	6	JA1171- JA1172
Trial Exhibit 22, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000013)	1/28/2019	6	JA1173- JA1174
Trial Exhibit 23, 06/24/2013 Email Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000014)	1/28/2019	6	JA1175- JA1176

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 24, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000015)	1/28/2019	6	JA1177- JA1178
Trial Exhibit 25, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000333-000337)	1/28/2019	6	JA1179- JA1184
Trial Exhibit 26, 06/25/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000016)	1/28/2019	6	JA1185- JA1186
Trial Exhibit 27, 07/02/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000017)	1/28/2019	6	JA1187- JA1188
Trial Exhibit 28, 07/02/2013 Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000018)	1/28/2019	6	JA1189- JA1190
Trial Exhibit 29, 07/03/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000019)	1/28/2019	6	JA1191- JA1192
Trial Exhibit 30, 07/05/2013 Stock Sale and Purchase Agreement between Weiser and Skarpelos (WEISER000207-WEISER000209)	1/28/2019	6	JA1193- JA1196

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 31, 07/09/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos (S000020)	1/28/2019	6	JA1197- JA1198
Trial Exhibit 32, 07/09/2013 Blank Stock Sale and Purchase Agreement signed by Skarpelos (WEISER000161-WEISER000163)	1/28/2019	6	JA1199- JA1202
Trial Exhibit 33, 7/09/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000328-WEISER000332)	1/28/2019	6	JA1203- JA1208
Trial Exhibit 34, Blank Stock Sale and Purchase Agreement (WEISER000156-WEISER000158)	1/28/2019	6	JA1209- JA1212
Trial Exhibit 35, 07/12/2013 Power of Attorney to Transfer Bonds or Shares (WEISER000368)	1/28/2019	6	JA1213- JA1214
Trial Exhibit 36, 07/12/2013 Power of Attorney to Transfer Bonds or Shares (WEISER000369)	1/28/2019	6	JA1215- JA1216
Trial Exhibit 40, 10/28/2013 Email Tom Skarpelos and Christos Livadas (WEISER000339)	1/28/2019	6	JA1217- JA1218

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 43, 12/31/2013 Weiser Skarpelos Statement of Account for February 1, 2013 - December 31, 2013 (WEISER000378-WEISER000380)	1/28/2019	6	JA1219- JA1222
Trial Exhibit 44, Duplicate copy of 12/31/2013 Weiser Skarpelos Statement of Account for February 1, 2013 - December 31, 2013 (WEISER000378-WEISER000380)	1/28/2019	6	JA1223- JA1226
Trial Exhibit 46, 11/02/2015 Letter Ernest A. Alvarez to Nevada Agency and Transfer Company Weiser Asset Management Ltd. (WEISER000004)	1/28/2019	6	JA1227- JA1228
Trial Exhibit 47, 11/03/2015 Letter Alexander H. Walker III to Ernest A. Alvarez (WEISER000001)	1/28/2019	6	JA1229- JA1230
Trial Exhibit 48, 11/12/2015 Letter Elias Soursos, Weiser Asset Management Ltd. to NATCO (WEISER000011)	1/28/2019	6	JA1231- JA1232
Trial Exhibit 49, 11/12/2015 Letter Bernard Pinsky to Nevada Agency and Transfer Company (WEISER000007-WEISER000008)	1/28/2019	6	JA1233- JA1235
Trial Exhibit 50, 11/12/2015 Email Christos Livadas to Nick Boutasalis (WEISER 000214-WEISER000215)	1/28/2019	6	JA1236- JA1238

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 51, 11/13/2015 Letter Ernesto A. Alvarez to Alexander Walker III, Esq. (WEISER000009)	1/28/2019	6	JA1239- JA1240
Trial Exhibit 52, 11/13/2015 Letter Ernesto A. Alvarez to Nevada Agency and Transfer Company (WEISER000005)	1/28/2019	6	JA1241- JA1242
Trial Exhibit 53, 11/13/2015 email Alexander H. Walker III to Ernesto A. Alvarez cc Amanda Cardinelli (WEISER000187-WEISER000189)	1/28/2019	6	JA1243- JA1246
Trial Exhibit 54, 11/13/2015 Letter Nick Boutsalis to NATCO (PID-00045-PID-00048)	1/28/2019	6	JA1247- JA1251
Trial Exhibit 55, 11/16/2015 letter to Ernesto A. Alvarez to Alexander Walker III, Esq., (WEISER000012)	1/28/2019	6	JA1252- JA1253
Trial Exhibit 56, 11/17/2015 email Bill Simonitsch to Louis R. Montello cc Ernesto Alvarez (WEISER000238)	1/28/2019	6	JA1254- JA1255
Trial Exhibit 57, 11/18/2015 email Bill Simonitsch and Ernesto A. Alvarez (WEISER000216-WEISER000217)	1/28/2019	6	JA1256- JA1258
Trial Exhibit 58, 11/19/2015 Email bill Simonitsch and Ernesto A. Alvarez cc Louis Montello (WEISER000218-WEISER000219)	1/28/2019	7	JA1259- JA1261

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 59, 11/19/2015 Email Christos Livadas re Tom Transfer request (WEISER000320-WEISER000322)	1/28/2019	7	JA1262- JA1265
Trial Exhibit 60, 11/19/2015 email Christos Livadas re Skarpelos Email flow 2011-2013 (WEISER000341-WEISER000343)	1/28/2019	7	JA1266- JA1269
Minutes - Bench Trial Day 1	1/28/2019	7	JA1270- JA1271
Transcript of Proceedings - Trial - Day 1	1/28/2019	7	JA1272- JA1423
Minutes - Bench Trial Day 2	1/29/2019	7	JA1424
Transcript of Proceedings - Trial - Day 2	1//29/2019	7; 8	JA1425- JA1470; JA1471- JA1557
Minutes - Bench Trial Day 3	1/30/2019	8	JA1558- JA1559
Trial Exhibit 61, Bank documents (S000032-S000035)	1/30/2019	8	JA1560- JA1564
Transcript of Proceedings – Bench Trial – Day 3	1/30/2019	8; 9	JA1565- JA1680; JA1681- JA1713
Minutes - Bench Trial Day 4	1/31/2019	9	JA1714- JA1715

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Trial Exhibit 11, MHNMYA Swift-Single Customer Credit Transfer (WEISER000346)	1/31/2019	9	JA1716- JA1717
Trial Exhibit 12, 12/21/2012 email Lambros Pedafronimos L. Pedaf@gmail.com to Christos Livadas (WEISER000345)	1/31/2019	9	JA1718- JA1719
Trial Exhibit 18, 4/26/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000338)	1/31/2019	9	JA1720- JA1721
Trial Exhibit 19, 5/09/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000312)	1/31/2019	9	JA1722- JA1723
Transcript of Proceedings – Bench Trial – Day 4	1/31/2019	9	JA1724- JA1838
Minutes - Bench Trial Day 5	2/1/2019	9	JA1839- JA1850
Transcript of Proceedings – Bench Trial – Day 5	2/01/219	9; 10	JA1851- JA1890; JA1891- JA1913
Transcript of Proceedings 02/06/2019	2/6/2019	10	JA1914- JA1950

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Minutes - Decision Hearing	2/25/2019	10	JA1951
Minutes - Conference Call on 3/14/19	3/15/2019	10	JA1952
Defendants/Cross-Claimants Weiser's Objections to Findings of Fact, Conclusions of Law, and Judgment	4/3/2019	10	JA1953- JA2048
Skarpelos' Responses to Weiser's Objections to Findings of Fact, Conclusions of Law, and Judgment	4/8/2019	10	JA2049- JA2052
Defendant Cross-Claimants Weiser's Supplemental Brief Pursuant to Court Order	4/8/2019	10; 11	JA2053- JA2100; JA2101- JA2150
Skarpelos' Post-Trial Brief Regarding Restriction on Disposition of Stock	4/8/2019	11	JA2151- JA2155
Findings of Fact, Conclusions of Law and Judgment	4/22/2019	11	JA2156- JA2164
NEF Proof of Electronic Service (Findings of Fact, Conclusions of Law and Judgment)	4/22/2019	11	JA2165- JA2167
Notice of Entry of Judgment (Findings of Fact, Conclusions of Law and Judgment)	4/22/2019	11	JA2168- JA2181
Minutes - Conference Call on 04/22/2019	4/22/2019	11	JA2182
Skarpelos' Motion to Alter or Amend Judgment	4/25/2019	11	JA2183- JA2248

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
NEF Proof of Electronic Service (Motion to Alter or Amend Judgment)	4/25/2019	11	JA2249- JA2251
Motion for Attorney's Fees	4/25/2019	11; 12	JA2252- JA2310; JA2311- JA2338
Declaration of Dane W. Anderson In Support of Motion for Attorneys' Fees	4/25/2019	12	JA2339- JA2362
Verified Memorandum of Costs and Disbursements	4/25/2019	12	JA2363- JA2443
Affidavit of Dane W. Anderson In Support of Verified Memorandum of Costs and Disbursements	4/25/2019	12	JA2444- JA2447
Defendants/Cross-Claimants Weiser's Motion to Retax Costs	5/3/2019	12	JA2448- JA2454
Opposition to Motion to Retax costs	5/14/2019	12	JA2455- JA2460
Declaration of Dane W. Anderson In Support of Motion to Retax Costs	5/14/2019	12	JA2461- JA2485
Defendant/Cross-Claimant Weiser's Reply In Support of Motion To Retax Costs	5/20/2019	12	JA2486- JA2491

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Defendants/Cross-Claimants Weiser's Opposition to Skarpelos' Motion to Alter or Amend Judgment	5/24/2019	12	JA2492-JA2501
Weiser's Opposition to Skarpelo's Motion for Attorney's Fees	5/24/2019	12	JA2502-JA2508
Reply in Support of Motion for Attorneys' Fees	6/7/2019	12	JA2509-JA2518
Reply in Support of Skarpelos' Motion to Alter or Amend Judgment	6/7/2019	13	JA2519-JA2526
Order Granting in Part and Denying in Part Motion to Retax Costs	8/6/2019	13	JA2527-JA2538
Order Denying Motion to Alter or Amend Judgment	8/6/2019	13	JA2539-JA2544
NEF Proof of Electronic Filing (Order Denying Motion to Alter or Amend Judgment)	8/6/2019	13	JA2545-JA2547
Order Granting Motion for Attorney's Fees	8/9/2019	13	JA2548-JA2554
Notice of Entry of Order (Order Granting in Part and Denying in Part Motion to Retax Costs)	8/9/2019	13	JA2555-JA2571
Notice of Entry of Order (Order Denying Motion to Alter or Amend Judgment)	8/9/2019	13	JA2572-JA2582

Document Title (<i>Chronological</i>)	Date	Vol.	Page No.
Notice of Entry of Order (Order Granting Motion for Attorneys' Fees)	8/9/2019	13	JA2583-JA2594
Notice of Appeal	8/15/2019	13	JA2595-JA2615
Weiser's Motion for Reconsideration of Attorney's Fee Award (Request for Oral Argument)	8/19/2019	13	JA2616-JA2623
Opposition to Motion for Reconsideration of Attorney's Fee Award	8/28/2019	13	JA2624-JA2633
Notice of Cross-Appeal	8/29/2019	13	JA2634-JA2655
Reply in Support of Weiser's Motion for Reconsideration for Attorney's Fees Award	9/10/2019	13	JA2656-JA2662
Order Denying Motion for Reconsideration	10/24/2019	13	JA2663-JA2669
Notice of Entry of Order (Order Denying Motion for Reconsideration)	11/18/2019	14	JA2670-JA2681
NEF Proof of Electronic Filing (Notice of Entry of Order Denying Motion for Reconsideration)	11/18/2019	14	JA2682-JA2684

ALPHABETICAL INDEX TO APPENDIX

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Acceptance of Service (Murtha)	1/28/2016	1	JA0013-JA0015

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Acceptance of Service (Nork)	1/28/2016	1	JA0016- JA0018
Affidavit of Athanasios Skarpelos in Support of Motion for Summary Judgment	3/12/2018	2	JA0254- JA0277
Affidavit of Dane W. Anderson In Support of Verified Memorandum of Costs and Disbursements	4/25/2019	12	JA2444- JA2447
Affidavit of John F. Murtha In Support of Motion in Limine	3/21/2018	2	JA0349- JA0352
Affidavit of John F. Murtha In Support of Skarpelos' Reply in Support of Motion for Summary Judgment	4/27/2018	3	JA0597- JA0602
Affidavit of John Murtha in Support of Motion for Summary Judgment	3/12/2018	2	JA0249- JA0253
Amended Complaint	4/29/2016	1	JA0030- JA0042
Answer to Amended Complaint and Cross-Claim (By Defendant Skarpelos)	5/23/2016	1	JA0046- JA0057
Answer to Complaint and Cross-Claim (Defendant Cross-Claimant Skarpelos)	2/18/2016	1	JA0019- JA0029
Athanasios Skarpelos' Motion for Summary Judgment	3/12/2018	1; 2	JA0160- 210; JA0211- JA0248

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Athanasios Skarpelos' Motion in Limine	3/21/2018	2	JA0278- JA0348
Athanasios Skarpelos' Reply in Support of Motion for Summary Judgment	4/27/2018	3	JA0584- JA0596
Athanasios Skarpelos' Reply in Support of Motion in Limine	4/27/2018	3	JA0603- JA0607
Complaint	11/18/2015	1	JA0001- JA0012
Confirming Order	11/17/2017	1	JA0158- JA0159
Consent to File Amended Complaint	4/29/2016	1	JA0043- JA0045
Declaration of Dane W. Anderson In Support of Motion for Attorneys' Fees	4/25/2019	12	JA2339- JA2362
Declaration of Dane W. Anderson In Support of Motion to Retax Costs	5/14/2019	12	JA2461- JA2485
Defendant Cross-Claimant Athanasios Skarpelos' Pretrial Disclosures	12/21/2018	3	JA0623- JA0626
Defendant Cross-Claimant Athanasios Skarpelos' Trial Statement	1/23/2019	4	JA0659- JA0713
Defendant Cross-Claimants Weiser's Pretrial Disclosures	12/31/2018	3	JA0627- JA0629

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Defendant Cross-Claimants Weiser's Supplemental Brief Pursuant to Court Order	4/8/2019	10; 11	JA2053- JA2100; JA2101- JA2150
Defendant/Cross-Claimant Weiser's Reply In Support of Motion To Retax Costs	5/20/2019	12	JA2486- JA2491
Defendants Cross-Claimants Weser's Trial Statement	1/23/2019	4	JA0636- JA0658
Defendants/Cross-Claimants Weiser's Motion to Retax Costs	5/3/2019	12	JA2448- JA2454
Defendants/Cross-Claimants Weiser's Objections to Findings of Fact, Conclusions of Law, and Judgment	4/3/2019	10	JA1953- JA2048
Defendants/Cross-Claimants Weiser's Opposition to Skarpelos' Motion to Alter or Amend Judgment	5/24/2019	12	JA2492- JA2501
Deposition of Christos Livadas Dated 10/23/2018	1/28/2019	4; 5; 6	JA0717- JA0840; JA841- 1050; JA1051- JA1134
Findings of Fact, Conclusions of Law and Judgment	4/22/2019	11	JA2156- JA2164
Joint Case Management Report	8/23/2016	1	JA0082- JA0095

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Minutes - Decision Hearing	2/25/2019	10	JA1951
Minutes - Bench Trial Day 1	1/28/2019	7	JA1270- JA1271
Minutes - Bench Trial Day 2	1/29/2019	7	JA1424
Minutes - Bench Trial Day 3	1/30/2019	8	JA1558- JA1559
Minutes - Bench Trial Day 4	1/31/2019	9	JA1714- JA1715
Minutes - Bench Trial Day 5	2/1/2019	9	JA1839- JA1850
Minutes - Conference Call on 04/22/2019	4/22/2019	11	JA2182
Minutes - Conference Call on 3/14/19	3/15/2019	10	JA1952
Motion for Attorney's Fees	4/25/2019	11; 12	JA2252- JA2310; JA2311- JA2338
Motion to Compel	7/28/2017	1	JA0106- JA0133
NEF Proof of Electronic Filing (Notice of Entry of Order Denying Motion for Reconsideration)	11/18/2019	14	JA2682- JA2684

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
NEF Proof of Electronic Filing (Order Denying Motion to Alter or Amend Judgment)	8/6/2019	13	JA2545-JA2547
NEF Proof of Electronic Service (Findings of Fact, Conclusions of Law and Judgment)	4/22/2019	11	JA2165-JA2167
NEF Proof of Electronic Service (Motion to Alter or Amend Judgment)	4/25/2019	11	JA2249-JA2251
Notice of Appeal	8/15/2019	13	JA2595-JA2615
Notice of Cross-Appeal	8/29/2019	13	JA2634-JA2655
Notice of Entry of Judgment (Findings of Fact, Conclusions of Law and Judgment)	4/22/2019	11	JA2168-JA2181
Notice of Entry of Order (Order Denying Motion for Reconsideration)	11/18/2019	14	JA2670-JA2681
Notice of Entry of Order (Order Denying Motion to Alter or Amend Judgment)	8/9/2019	13	JA2572-JA2582
Notice of Entry of Order (Order Granting in Part and Denying in Part Motion to Retax Costs)	8/9/2019	13	JA2555-JA2571
Notice of Entry of Order (Order Granting Motion for Attorneys' Fees)	8/9/2019	13	JA2583-JA2594

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Opposition to Motion for Reconsideration of Attorney's Fee Award	8/28/2019	13	JA2624-JA2633
Opposition to Motion to Retax costs	5/14/2019	12	JA2455-JA2460
Order Denying Athanasios Skarpelos' Motion for Summary Judgment	6/21/2018	3	JA0608-JA0615
Order Denying Motion for Reconsideration	10/24/2019	13	JA2663-JA2669
Order Denying Motion to Alter or Amend Judgment	8/6/2019	13	JA2539-JA2544
Order Denying Skarpelos' Motion in Limine	6/29/2018	3	JA0616-JA0622
Order Granting in Part and Denying in Part Motion to Retax Costs	8/6/2019	13	JA2527-JA2538
Order Granting Motion for Attorney's Fees	8/9/2019	13	JA2548-JA2554
Order Granting Motion for Discharge	1/23/2019	4	JA0714-JA0716
Pretrial Order	3/31/2017	1	JA0096-JA0105
Recommendation for Order	10/31/2017	1	JA0145-JA0157
Reply in Support of Motion for Attorneys' Fees	6/7/2019	12	JA2509-JA2518

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Reply in Support of Motion to Compel	8/21/2017	1	JA0138- JA0144
Reply in Support of Skarpelos' Motion to Alter or Amend Judgment	6/7/2019	13	JA2519- JA2526
Reply in Support of Weiser's Motion for Reconsideration for Attorney's Fees Award	9/10/2019	13	JA2656- JA2662
Skarpelos' Answer to Weiser's Cross-Claim	6/17/2016	1	JA0075- JA0081
Skarpelos' Motion to Alter or Amend Judgment	4/25/2019	11	JA2183- JA2248
Skarpelos' Objections to Weiser's Pretrial Disclosures	1/11/2019	4	JA0630- JA0635
Skarpelos' Post-Trial Brief Regarding Restriction on Disposition of Stock	4/8/2019	11	JA2151- JA2155
Skarpelos' Responses to Weiser's Objections to Findings of Fact, Conclusions of Law, and Judgment	4/8/2019	10	JA2049- JA2052
Transcript of Proceedings – Bench Trial – Day 3	1/30/2019	8; 9	JA1565- JA1680; JA1681- JA1713
Transcript of Proceedings – Bench Trial – Day 4	1/31/2019	9	JA1724- JA1838

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Transcript of Proceedings – Bench Trial – Day 5	2/01/219	9; 10	JA1851- JA1890; JA1891- JA1913
Transcript of Proceedings - Trial - Day 1	1/28/2019	7	JA1272- JA1423
Transcript of Proceedings - Trial - Day 2	1//29/2019	7; 8	JA1425- JA1470; JA1471- JA1557
Transcript of Proceedings 02/06/2019	2/6/2019	10	JA1914- JA1950
Trial Exhibit 1, Anavex Life Sciences Corp. Share Certificate 0753 for 6,633,332 shares (WEISER000281)	1/28/2019	6	JA1135- JA1136
Trial Exhibit 11, MHNYMA Swift-Single Customer Credit Transfer (WEISER000346)	1/31/2019	9	JA1716- JA1717
Trial Exhibit 12, 12/21/2012 email Lambros Pedafronimos L. Pedaf@gmail.com to Christos Livadas (WEISER000345)	1/31/2019	9	JA1718- JA1719
Trial Exhibit 13, 1/10/2013 Corporate Indemnity to Nevada Agency and Transfer Company to Reissuance of Lost Certificate (S000007)	1/28/2019	6	JA1160- JA1161

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 14, 3/28/2013 Athanasios Skarpelos Affidavit for Lost Stock Certificate (S000008-S000009)	1/28/2019	6	JA1162-JA1164
Trial Exhibit 15, 3/29/2013 Athanasios Skarpelos Stop Transfer Order (S000010)	1/28/2019	6	JA1165-JA1166
Trial Exhibit 16, 4/4/2013 NATCO Transfer (S000011)	1/28/2019	6	JA1167-JA1168
Trial Exhibit 18, 4/26/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000338)	1/31/2019	9	JA1720-JA1721
Trial Exhibit 19, 5/09/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000312)	1/31/2019	9	JA1722-JA1723
Trial Exhibit 2, WAM New Account Opening Form (WEISER000352-361)	1/28/2019	6	JA1137-JA1147
Trial Exhibit 20, 5/24/2013 email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000340)	1/28/2019	6	JA1169-JA1170
Trial Exhibit 21, 06/24/2013 Email Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000012)	1/28/2019	6	JA1171-JA1172

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 22, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000013)	1/28/2019	6	JA1173-JA1174
Trial Exhibit 23, 06/24/2013 Email Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000014)	1/28/2019	6	JA1175-JA1176
Trial Exhibit 24, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000015)	1/28/2019	6	JA1177-JA1178
Trial Exhibit 25, 06/24/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000333-000337)	1/28/2019	6	JA1179-JA1184
Trial Exhibit 26, 06/25/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000016)	1/28/2019	6	JA1185-JA1186
Trial Exhibit 27, 07/02/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000017)	1/28/2019	6	JA1187-JA1188
Trial Exhibit 28, 07/02/2013 Christos Livadas Lambros to Pedafronimos L.Pedaf@gmail.com (S000018)	1/28/2019	6	JA1189-JA1190

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 29, 07/03/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (S000019)	1/28/2019	6	JA1191-JA1192
Trial Exhibit 3, Letter dated October 30, 2015 from Montello Law Firm to NATCO (WEISER000002-WEISER000003)	1/28/2019	6	JA1148-JA1150
Trial Exhibit 30, 07/05/2013 Stock Sale and Purchase Agreement between Weiser and Skarpelos (WEISER000207-WEISER000209)	1/28/2019	6	JA1193-JA1196
Trial Exhibit 31, 07/09/2013 Lambros Pedafronimos L.Pedaf@gmail.com to Christos (S000020)	1/28/2019	6	JA1197-JA1198
Trial Exhibit 32, 07/09/2013 Blank Stock Sale and Purchase Agreement signed by Skarpelos (WEISER000161-WEISER000163)	1/28/2019	6	JA1199-JA1202
Trial Exhibit 33, 7/09/2013 Email Lambros Pedafronimos L.Pedaf@gmail.com to Christos Livadas (WEISER000328-WEISER000332)	1/28/2019	6	JA1203-JA1208
Trial Exhibit 34, Blank Stock Sale and Purchase Agreement (WEISER000156-WEISER000158)	1/28/2019	6	JA1209-JA1212

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 35, 07/12/2013 Power of Attorney to Transfer Bonds or Shares (WEISER000368)	1/28/2019	6	JA1213-JA1214
Trial Exhibit 36, 07/12/2013 Power of Attorney to Transfer Bonds or Shares (WEISER000369)	1/28/2019	6	JA1215-JA1216
Trial Exhibit 40, 10/28/2013 Email Tom Skarpelos and Christos Livadas (WEISER000339)	1/28/2019	6	JA1217-JA1218
Trial Exhibit 43, 12/31/2013 Weiser Skarpelos Statement of Account for February 1, 2013 - December 31, 2013 (WEISER000378-WEISER000380)	1/28/2019	6	JA1219-JA1222
Trial Exhibit 44, Duplicate copy of 12/31/2013 Weiser Skarpelos Statement of Account for February 1, 2013 - December 31, 2013 (WEISER000378-WEISER000380)	1/28/2019	6	JA1223-JA1226
Trial Exhibit 46, 11/02/2015 Letter Ernest A. Alvarez to Nevada Agency and Transfer Company Weiser Asset Management Ltd. (WEISER000004)	1/28/2019	6	JA1227-JA1228
Trial Exhibit 47, 11/03/2015 Letter Alexander H. Walker III to Ernest A. Alvarez (WEISER000001)	1/28/2019	6	JA1229-JA1230

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 48, 11/12/2015 Letter Elias Soursos, Weiser Asset Management Ltd. to NATCO (WEISER000011)	1/28/2019	6	JA1231-JA1232
Trial Exhibit 49, 11/12/2015 Letter Bernard Pinsky to Nevada Agency and Transfer Company (WEISER000007-WEISER000008)	1/28/2019	6	JA1233-JA1235
Trial Exhibit 50, 11/12/2015 Email Christos Livadas to Nick Boutasalis (WEISER 000214-WEISER000215)	1/28/2019	6	JA1236-JA1238
Trial Exhibit 51, 11/13/2015 Letter Ernesto A. Alvarez to Alexander Walker III, Esq. (WEISER000009)	1/28/2019	6	JA1239-JA1240
Trial Exhibit 52, 11/13/2015 Letter Ernesto A. Alvarez to Nevada Agency and Transfer Company (WEISER000005)	1/28/2019	6	JA1241-JA1242
Trial Exhibit 53, 11/13/2015 email Alexander H. Walker III to Ernesto A. Alvarez cc Amanda Cardinelli (WEISER000187-WEISER000189)	1/28/2019	6	JA1243-JA1246
Trial Exhibit 54, 11/13/2015 Letter Nick Boutasalis to NATCO (PID-00045-PID-00048)	1/28/2019	6	JA1247-JA1251

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 55, 11/16/2015 letter to Ernesto A. Alvarez to Alexander Walker III, Esq., (WEISER000012)	1/28/2019	6	JA1252- JA1253
Trial Exhibit 56, 11/17/2015 email Bill Simonitsch to Louis R. Montello cc Ernesto Alvarez (WEISER000238)	1/28/2019	6	JA1254- JA1255
Trial Exhibit 57, 11/18/2015 email Bill Simonitsch and Ernesto A. Alvarez (WEISER000216-WEISER000217)	1/28/2019	6	JA1256- JA1258
Trial Exhibit 58, 11/19/2015 Email bill Simonitsch and Ernesto A. Alvarez cc Louis Montello (WEISER000218-WEISER000219)	1/28/2019	7	JA1259- JA1261
Trial Exhibit 59, 11/19/2015 Email Christos Livadas re Tom Transfer request (WEISER000320-WEISER000322)	1/28/2019	7	JA1262- JA1265
Trial Exhibit 60, 11/19/2015 email Christos Livadas re Skarpelos Email flow 2011-2013 (WEISER000341-WEISER000343)	1/28/2019	7	JA1266- JA1269
Trial Exhibit 61, Bank documents (S000032-S000035)	1/30/2019	7	JA1560- JA1564
Trial Exhibit 7, 05/30/2011 Email between Athanasios Skarpelos and Howard Daniels re Courier Address for WAM, Ltd. (S000006)	1/28/2019	6	JA1151- JA1152

Document Title (<i>Alphabetical</i>)	Date	Vol.	Page No.
Trial Exhibit 8, 05/31/2011 Skarpelos Identify Verification Form with Supporting Documents (WEISER000362-WEISER00367)	1/28/2019	6	JA1153-JA1159
Verified Memorandum of Costs and Disbursements	4/25/2019	11	JA2363-JA2443
Weiser's Motion for Reconsideration of Attorney's Fee Award (Request for Oral Argument)	8/19/2019	13	JA2616-JA2623
Weiser's Opposition to Motion to Compel	8/14/2017	1	JA0134-JA0137
Weiser's Opposition to Skarpelo's Motion for Attorney's Fees	5/24/2019	12	JA2502-JA2508
Weiser's Opposition to Skarpelos' Motion for Summary Judgment	4/12/2018	3	JA0466-JA0583
Weiser's Opposition to Skarpelos' Motion in Limine	4/12/2018	2; 3	JA0353-JA0420; JA0421-0465
Weiser's Answer and Cross Claim	5/24/2016	1	JA0058-JA0070
Weiser's Answer to Skarpelos' Cross-Claim	6/15/2016	1	JA0071-JA0074

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JACQUELINE B. DANT
CLERK OF THE COURT
BY *[Signature]*
DEPUTY

CODE: \$1425

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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada corporation,

Plaintiff,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, ATHANASIOS
SKARPELOS, an individual, and DOES 1
through 10,

Defendants.

Case No. CV15 02259Dept. No. 10COMPLAINT

COMES NOW Plaintiff Nevada Agency and Transfer Company, above named by and
through its attorneys, and hereby alleges as follows:

1. Plaintiff Nevada Agency and Transfer Company ("NATCO") is a Nevada
corporation with its principal place of business located in Reno, Nevada.

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DC-09900071831-005
12 Pages
NV AGENCY & TRANSFER CO VS
District Court 11/18/2015 11:05 AM
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Washoe County
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1 2. Based upon information and belief Plaintiff alleges that Defendant Weiser
2 Asset Management, Ltd. is a company organized and operated under the laws of the Bahamas.

3 3. Based upon information and belief Plaintiff alleges that Athanasios Skarpelos
4 is an individual who resides in the nation of Greece.

5 4. Plaintiff does not know the true names and capacities of Defendants sued
6 herein as DOES 1 through 10, inclusive, and therefore sues these Defendants by fictitious
7 names. Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously
8 named Defendants are responsible in some actionable manner for the damages herein alleged.
9 Plaintiff requests leave of Court to amend the Complaint to name such Defendants
10 specifically when their identities become known.

11 **GENERAL ALLEGATIONS**

12 **A. The Business of Nevada Agency and Transfer Company.**

13 5. Since 1903, Plaintiff has been engaged in the stock transfer and registrar
14 business. Plaintiff acts as the stock transfer agent and registrar for numerous corporations.

15 6. Companies, especially companies that have publicly traded securities, typically
16 use transfer agents to keep track of the individuals and entities that own their stocks, bonds
17 and other securities. Most transfer agents generally perform ministerial functions for
18 corporations such as:

- 19 a. Issuing and canceling stock certificates to reflect changes in ownership;
20 b. Acting as an intermediary for the company for ministerial functions
21 such as paying cash and stock dividends, or other distributions to stockholders. In addition,
22 transfer agents act as proxy agent (sending out proxy materials), exchange agent (exchanging
23 a company's stock in a merger), tender agent (tendering shares in a tender offer), and mailing
24
25

1 agent (mailing the company's quarterly, annual, and other reports); and

2 c. Handling lost, destroyed, or stolen certificates. Transfer agents help
3 shareholders when a stock certificate has been lost, destroyed, or stolen.

4 7. As a transfer agent for public companies, NATCO is registered with the
5 Securities and Exchange Commission and NATCO operations are regularly inspected and
6 reviewed by examiners from the Securities and Exchange Commission.

7 **B. The Skarpelos's Lost Stock Affidavit**

8 8. During all time relevant to these allegations, NATCO has served as the transfer
9 agent and registrar for a Nevada corporation named Anavex Life Sciences Corp. ("Anavex").

10 9. On October 29, 2009, in the ordinary course of its business as Anavex's
11 transfer agent, NATCO effected a transfer of Anavex shares which had previously been
12 issued at the direction of Anavex's board of directors. As part of that transfer, NATCO issued
13 certificate number 753 registered in the name of Athanasios Skarpelos representing what was
14 then 6,633,332 shares of Anavex's common stock. Such shares were validly issued and
15 NATCO placed a restrictive legend on certificate 753 at the direction of Anavex and delivered
16 the share certificate to the registered owner.

17 10. On or about March 29, 2013, Defendant Skarpelos executed and delivered to
18 NATCO documentation, including an Affidavit for Lost Certificate, indicating that certificate
19 753, along with another Anavex certificate registered in his name, had been lost and requested
20 that NATCO issue a replacement certificate for the two lost certificates.

21 11. On that same date, Defendant Skarpelos executed and delivered to NATCO a
22 Stop Transfer Order under the terms of which Defendant Skarpelos, as the registered owner of
23 certificate number 753 instructed NATCO to place a "stop transfer order" against certificate
24 number 753.
25

12. At the time he requested the lost certificate, Defendant Skarpelos was the only officer and director of Anavex.

13. As the only officer and director of Anavex, Defendant Skarpelos also executed and delivered to NATCO a Corporate Indemnity to Nevada Agency and Transfer Company for Reissuance of Lost Certificate under the terms of which Anavex agreed to "indemnify Nevada Agency and Transfer Company against any and all costs, damages, actions, expenses, and attorney's fees which might result from the issuance of a duplicate certificate to replace" certificate 753.

14. Based upon the representations of Defendant Skarpelos and Anavex, NATCO issued a replacement certificate, certificate number 975 (the "Replacement Certificate"), for the two lost certificates. NATCO also placed stop transfer orders against the two lost certificates per the representations of Defendant Skarpelos and Anavex.

C. Weiser's Claim to Shares Represented by Certificate Number 753.

15. On October 30, 2015, Defendant Weiser, through its attorney Ernesto Alvarez, delivered an e-mailed letter to NATCO in which Defendant Weiser claimed:

a. on or about July 12, 2013, Defendant Skarpelos sold 3,316,666 shares of common stock of Anavex, but did not mention to whom Defendant Skarpelos had sold such shares;

b. Defendant Weiser had delivered to Nevada Agency and Transfer, in its capacity as transfer agent for Anavex, certificate 753, though in fact as of October 30, 2015 Weiser had in fact not delivered certificate number 753 to NATCO;

c. Defendant Weiser had delivered to NATCO a stock power executed by Defendant Skarpelos in favor of Defendant Weiser when Defendant Weiser had in fact not

1 delivered such a stock power;

2 d. Defendant Skarpelos has obtained the Replacement Certificate under
3 false pretenses; and,

4 e. that Defendant Weiser was a "protected purchaser" of 3,316,666 of
5 Anavex stock, though Defendant Weiser offered no documentation to support that claim.

6 16. In its October 30, 2015, letter to NATCO Defendant Weiser demanded
7 NATCO:

8 a. place a stop transfer restriction on the shares of Anavex represented by
9 the Replacement Certificate;

10 b. cancel that Replacement Certificate; and,

11 c. register on Anavex's stock transfer records Weiser's ownership of
12 3,316,666 share of Anavex common stock.

13 17. On or about November 3, 2013, NATCO, through its counsel, responded to
14 Defendant's Weiser's October 30, 2015 letter and asked Defendant Weiser to:

15 a. provide NATCO's counsel with copies of the documents evidencing
16 Defendant Weiser's claim that it had presented certificate number 0753 to NATCO prior to
17 October 30, 2015;

18 b. provide to NATCO's counsel copies of certificate 0753 and any
19 instruction Defendant Weiser claimed to have submitted to NATCO prior to October 30,
20 2015;

21 c. indicate, for purposes of Defendant Weiser's request for stop transfer
22 instructions, if Defendant Weiser was making a request under section 8-403 that the issuer not
23 register a transfer.
24
25

1 d. identify the facts that support Defendant's Weiser's claim that it was an
2 "appropriate person" as that term is identified under the applicable provisions of the Uniform
3 Commercial Code for purposes of requesting a stop transfer order.

4 18. As of the date of this complaint, Defendant Weiser has not:

5 a. provided NATCO's counsel with copies of the documents evidencing
6 Defendant Weiser's claim that it had presentment of certificate number 0753 to NATCO prior
7 to October 30, 2015;

8 b. provided to NATCO's counsel copies of any instruction Defendant
9 Weiser claimed to have submitted to NATCO prior to October 30, 2015;

10 c. indicated, for purposes of Defendant Weiser's request for stop transfer
11 instructions, if Defendant Weiser was making a request under section 8-403 that the issuer not
12 register a transfer.

13 d. identified the facts that support Defendant's Weiser's claim that it was
14 an "appropriate person" as that term is identified under the applicable provisions of the
15 Uniform Commercial Code for purposes of requesting a stop transfer order in connection with
16 the Replacement Certificate.
17

18 19. On or about November 13, 2015, Defendant Weiser delivered an emailed letter
19 to counsel for NATCO which indicated that;

20 a. Anavex had delivered or was in the process of delivering to NATCO
21 certificate number 753 together with a stock power executed by Defendant Skarpelos in favor
22 of Defendant Weiser;

23 b. Defendant Weiser was providing to NATCO under separate letter
24 instructions for the transfer of 3,316,666 share into the name of Defendant Weiser;
25

1 c. Defendant Weiser was a "protected purchaser" as that term is defined
2 under Nevada Revised Statute Section 104.8403 because Defendant Weiser had purchased a
3 certificated Security for value without notice of any adverse claim to the security at the time
4 of such purchase and thereafter obtained control of the certificated security.

5 20. As of the date of this complaint, Defendant Weiser has not provided
6 documentation that it had purchased shares represented by certificate 753 or the Replacement
7 Certificate.

8 21. On November 16, 2015, NATCO received certificate number 753 which
9 appeared to have been forwarded to NATCO by an entity known as Primoris Group. With
10 certificate number 753 NATCO received a stock power, or a copy of a stock power (the
11 "Stock Power"), which purports to be signed by the registered owner of certificate number
12 753 in blank, that is, while the stock power bears a signature, it does not contain instructions
13 regarding any transferee.

14 22. The signature on the Stock Power is not Medallion Guaranteed.

15 23. Certificate number 753 bears a restrictive legend which states, "[t]he shares
16 represented by this certificate have not been registered under the Securities Act of 1933, and
17 may not be sold, transferred or otherwise disposed unless in the opinion of counsel
18 satisfactory to the issuer, the transfer qualifies for an exemption from or exemption to the
19 registration provisions thereof."

20 24. Defendant Weiser did not submit an opinion of counsel with its request to
21 transfer the shares represented by certificate number 753.

22 25. Defendant Weiser has not tendered any transfer fee to NATCO.

23 26. Defendant Weiser claims it will be damaged if NATCO does not immediately
24
25

1 transfer 3,316,666 share of Anavex common stock to Defendant Weiser in the manner
2 Defendant Weiser has demanded.

3 **D. Defendant Skarpelos's Claim to Certificate Number 753.**

4 27. On November 2, 2015, NATCO forwarded a copy of Defendant Weiser's
5 October 30, 2015 letter to Defendant Skarpelos.

6 28. On or about November 12, 2015, Defendant Skarpelos, through his attorney,
7 informed NATCO and Defendant Weiser of Defendant Skarpelos's claim that:

8 a. Defendant Skarpelos did provide Defendant Weiser with certificates
9 753 and 660 representing shares of Anavex common stock in order to establish a brokerage
10 account with Defendant Weiser;

11 b. Defendant Weiser had represented itself to Defendant Skarpelos as a
12 registered broker-dealer.

13 c. The process of opening Defendant Skarpelos's account with Defendant
14 Wesier was not going smoothly.

15 d. Defendant Skarpelos learned that Defendant Weiser was not a properly
16 licensed broker-dealer in the United States.

17 e. Defendant Skarpelos tried many times to reach his contact at
18 Defendant Weiser to get his shares back, but was unsuccessful in connection with anyone in
19 authority at Defendant Weiser.

20 f. Defendant Skarpelos became alarmed when Defendant Weiser stopped
21 answering its phones.

22 g. Defendant Skarpelos was worried that Defendant Weiser was not
23 reliably holding the share he had delivered to Defendant Weiser, including the shares
24
25

1 represented by certificate number 753, and contacted NATCO to see about cancelling the
2 share certificates he had delivered to Weiser and getting a new one.

3 h. Through his efforts, Defendant Skarpelos obtained the Replacement
4 Certificate.

5 j. In July of 2013, Defendant Weiser did re-establish contact with
6 Defendant Skarpelos and informed him Defendant Weiser would like to arrange the sale of
7 Defendant Skarpelos's shares of Anavex common stock.

8 k. Defendant Skarpelos was prepared to sell his Anavex shares on the
9 right conditions and did sign a purchase agreement on July 9, 2013 with regard to the sale of
10 shares represented by the Replacement Certificate, not the shares represented by certificate
11 753, a certificate which had been cancelled.

12 l. Defendant Skarpelos kept in his possession the original Replacement
13 Certificate together with the original Stock Power. Defendant Skarpelos did not deliver the
14 original signed Stock Power to Defendant Weiser.
15

16 m. Defendant Skarpelos would only deliver the original Replacement
17 Certificate and Stock Power to Defendant Weiser after the purchase price had been paid.

18 n. The purchase price for the shares subject to any agreement between
19 Defendant Skarpelos and Defendant Weiser never has been paid.

20 o. The terms of any sale agreement between Defendant Skarpelos and
21 Defendant Weiser have expired.

22 p. Defendant Weiser is not a protected purchaser because Defendant
23 Weiser never gave value for the shares it claims, and cannot claim that it did not have notice
24 of an adverse claim.
25

1 q. Defendant Weiser knew and knows that Defendant Skarpelos lays
2 claim to the shares which Defendant Weiser claims, and knew and knows Defendant
3 Skarpelos has not sold such shares.

4 r. Defendant Weiser is holding certificate 753, and the other cancelled
5 Anavex certificate, improperly.

6 s. Certificate 753, and the other cancelled certificate, should be returned
7 to NATCO to complete the record of cancellation.

8 **FIRST CLAIM FOR RELIEF**
9 **(Interpleader of Shares)**

10 29. Plaintiff incorporates the allegations of the paragraphs above as though fully
11 set forth herein.

12 30. Defendant Weiser and Defendant Skarpelos have asserted claims to the shares
13 represented by certificate number 753 which are adverse to one another.

14 31. NATCO cannot determine which defendant is entitled to the shares represented
15 by certificate 753.

16 32. As such NATCO is a disinterested stakeholder who may be exposed to
17 multiple liability.

18 33. NATCO stands ready willing and able to tender certificate number 753 to the
19 Court or take action in connection with certificate number 753 as the Court directs.

20 34. NATCO is entitled to an order of the Court which:

21 a. requires Defendant Weiser and Defendant Skarpelos to litigate their
22 respective claims to certificate number 753 herein;

23 b. releases and forever discharges NATCO from liability related to or
24 arising from the competing claims of the defendants to certificate number 753;
25

1 c. directs NATCO, upon resolution of the defendants' competing claims,
2 to transfer, cancel or otherwise dispose of the shares represented by certificate 753 as the
3 Court deems legally proper, fair, just and equitable.

4 35. Plaintiff is entitled to its attorneys fees and costs in connection with this action.

5 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them,
6 as follows:

7 1. For an order of the Court which:

8 a. requires Defendant Weiser and Defendant Skarpelos to litigate their
9 respective claims to certificate number 753 herein;

10 b. releases and forever discharges NATCO from liability related to or arising
11 from the competing claims of the defendants to certificate number 753;

12 c. directs NATCO, upon resolution of the defendants' competing claims, to
13 transfer, cancel or otherwise dispose of the share represented by certificate 753 as the Court
14 deems legally proper, fair, just and equitable.

15 2. For costs of suit, including reasonable attorneys fees, incurred herein; and,
16

17 3. For such other and further relief as the Court may deem just and proper.

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document and/or attachments do not contain the social security number of any person.

Dated this 18th day of November, 2015.

ROBISON, BELAUSTEGUI, SHARP & LOW
a Professional Corporation
71 Washington Street
Reno, Nevada 89503

By: 

CLAYTON P. BRUST

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IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada Corporation,

Plaintiff,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, ATHANASIOS
SKARPELOS, an individual, and DOES 1
through 10,

Defendants.

Case No. CV15 02259

Dept. No. 10

ACCEPTANCE OF SERVICE

The undersigned, John Murtha, attorney for Defendant, Athanasios Skarpelos, acknowledges and accepts service of the Summons and Complaint, and acknowledges and agrees that upon the execution hereof, service on Defendant, Athanasios Skarpelos, of the Summons and Complaint shall be deemed complete in all respects as required by and pursuant to Rule 4, Nevada Rules of Civil Procedure. Accordingly, Defendant, Athanasios Skarpelos, by and

1 through his undersigned attorney, hereby waives any further service of process or actions by
2 Plaintiff, and agrees that this Acceptance of Service shall constitute good and adequate proof of
3 service as required by Rule 4, Nevada Rules of Civil Procedure. The undersigned counsel
4 hereby enters his appearance on behalf of Defendant, Athanasios Skarpelos.

5 Dated this 25th day of January, 2016.



John Murtha
WOODBURN & WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511-1149
Attorney for Athanasios Skarpelos

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

ACCEPTANCE OF SERVICE

(Title of Document)

filed in case number: CV 15 - 02259



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 01-28-2016

Wanda Osborne
(Signature)

Wanda Osborne
(Print Name)

(Attorney for)

CODE: 1005

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7 Telephone: (775) 329-3151

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8 Attorneys for Plaintiff

9 IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA

10 IN AND FOR THE COUNTY OF WASHOE

11 NEVADA AGENCY AND TRANSFER)

12 COMPANY, a Nevada Corporation,)

13 Plaintiff,)

14 vs.)

Case No. CV15 02259

15 WEISER ASSET MANAGEMENT, LTD., a)

Bahamas company, ATHANASIOS)

16 SKARPELOS, an individual, and DOES 1)
through 10,)

17 Defendants.)

Dept. No. 10

20 ACCEPTANCE OF SERVICE

21 The undersigned, Jeremy Nork, attorney for Defendant, Weiser Asset Management, Ltd.,
22 acknowledges and accepts service of the Summons and Complaint, and acknowledges and agrees
23 that upon the execution hereof, service on Defendant, Weiser Asset Management, Ltd., of the
24 Summons and Complaint shall be deemed complete in all respects as required by and pursuant to
25 Rule 4, Nevada Rules of Civil Procedure. Accordingly, Defendant, Weiser Asset Management,

1 Ltd., by and through its undersigned attorney, hereby waives any further service of process on
2 actions by Plaintiff, and agrees that this Acceptance of Service shall constitute good and
3 adequate proof of service as required by Rule 4, Nevada Rules of Civil Procedure. The
4 undersigned counsel hereby enters his appearance on behalf of Defendant, Weiser Asset
5 Management, Ltd.

6 Dated this 28 day of January, 2016.

7
8 
9 _____
10 Jeremy Nork
11 HOLLAND & HART
12 5441 Kietzke Lane
13 Reno, Nevada 89511
14 Attorney for Weiser Asset Management, Ltd.
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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

ACCEPTANCE OF SERVICE

(Title of Document)

filed in case number: CV 15-02259



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 01-28-2016

Wanda Osborne
(Signature)

Wanda Osborne
(Print Name)

(Attorney for)

Code 1155
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Nevada Bar No. 835
W. CHRIS WICKER, ESQ.
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jmurtha@woodburnandwedge.com
cwicker@woodburnandwedge.com

Attorneys for Defendant/Cross-Claimant
Athanasios Skarpelos

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada corporation,

Case No. CV15-02259
Dept. No. 10

Plaintiff,

vs.

**ANSWER TO COMPLAINT AND
CROSS-CLAIM (Defendant/
Cross-Claimant Skarpelos)**

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company; ATHANASIOS
SKARPELOS, an individual; and
DOES 1-10,

Defendants.

ATHANASIOS SKARPELOS, an individual

Cross-Claimant,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company,

Cross-Defendant.

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**ANSWER TO COMPLAINT AND CROSS-CLAIM
(Defendant/Cross-Claimant Skarpelos)**

Defendant Athanasios Skarpelos, by and through his counsel Woodburn and Wedge, hereby answers the Complaint filed herein on November 18, 2015, as follows:

1. The allegations of Paragraph 1 are admitted.
2. Defendant Skarpelos is without sufficient information to form a belief as to the truth of the allegations of Paragraph 2 and, therefore, denies the same.
3. The allegations of Paragraph 3 are admitted.
4. No answer is required to the allegations of Paragraph 4, but out of an abundance of caution Defendant Skarpelos repeats and realleges each and every admission, denial and other response set forth above.
5. The allegations of Paragraph 5 are admitted.
6. The allegations of Paragraph 6 are admitted.
7. Defendant Skarpelos is without sufficient information to form a belief as to the truth of the allegations of Paragraph 7 and, therefore, denies the same.
8. The allegations of Paragraph 8 are admitted.
9. The allegations of Paragraph 9 are admitted.
10. The allegations of Paragraph 10 are admitted.
11. The allegations of Paragraph 11 are admitted.
12. Responding to the allegations of Paragraph 12, Defendant Skarpelos admits he has been an officer and director of Anavex Life Sciences Corp. ("Anavex"), but cannot recall whether he was Anavex's sole officer and director at the time indicated in Paragraph 12 and, therefore, denies the same.

1 13. Responding to the allegations of Paragraph 13, Defendant Skarpelos
2 admits he has been an officer and director of Anavex, but cannot recall whether he
3 was an Anavex officer or director at the time indicated in Paragraph 13 and,
4 therefore, denies the same.
5

6 14. Responding to the allegations of Paragraph 14, Defendant Skarpelos
7 admits NATCO issued the Replacement Certificate, but it is without sufficient
8 information to form a belief as to the truth of the remaining allegations of Paragraph
9 14 and, therefore, denies the same.
10

11 15. Responding to the allegations of Paragraph 15, Defendant Skarpelos
12 admits Defendant Weiser sent a letter to NATCO, but he denies the truth of the
13 matters asserted in the letter and affirmatively pleads that Defendant Weiser has
14 absolutely no claim, legal or equitable, to any Anavex stock arising out of, related to,
15 or derived from any of the stock certificates referenced in the Complaint.
16

17 16. Responding to the allegations of Paragraph 16, Defendant Skarpelos
18 admits Defendant Weiser sent the letter to NATCO, but he denies Defendant Weiser
19 has any right to make the claims asserted in the letter and affirmatively pleads that
20 Defendant Weiser has absolutely no claim, legal or equitable, to any Anavex stock
21 arising out of, related to, or derived from any of the stock certificates referenced in
22 the Complaint.
23

24 17. The allegations of Paragraph 17 are admitted.

25 18. The allegations of Paragraph 18 are admitted.

26 19. Defendant Skarpelos is without sufficient information to form a belief as
27 to the truth of the allegations of Paragraph 19 and, therefore, denies the same.
28

 20. The allegations of Paragraph 20 are admitted.

1 21. Defendant Skarpelos is without sufficient information to form a belief as
2 to the truth of the allegations of Paragraph 21 and, therefore, denies the same.

3 22. Defendant Skarpelos is without sufficient information to form a belief as
4 to the truth of the allegations of Paragraph 22 and, therefore, denies the same.

5 23. The allegations of Paragraph 23 are admitted.

6 24. Defendant Skarpelos is without sufficient information to form a belief as
7 to the truth of the allegations of Paragraph 24 and, therefore, denies the same.

8 25. Defendant Skarpelos is without sufficient information to form a belief as
9 to the truth of the allegations of Paragraph 25 and, therefore, denies the same.

10 26. Defendant Skarpelos is without sufficient information to form a belief as
11 to the truth of the allegations of Paragraph 26 and, therefore, denies the same.

12 27. The allegations of Paragraph 27 are admitted.

13 28. The allegations of Paragraph 28 are admitted.

14 29. No answer is required to the allegations of Paragraph 29, but out of an
15 abundance of caution Defendant Skarpelos repeats and realleges each and every
16 admission, denial and other response set forth above.

17 30. The allegations of Paragraph 30 are admitted.

18 31. The allegations of Paragraph 31 are admitted.

19 32. The allegations of Paragraph 32 are admitted.

20 33. Defendant Skarpelos is without sufficient information to form a belief as
21 to the truth of the allegations of Paragraph 2 and, therefore, denies the same.

22 34. Defendant Skarpelos is without sufficient information to form a belief as
23 to the truth of the allegations of Paragraph 34 and, therefore, denies the same.

1 35. Defendant Skarpelos is without sufficient information to form a belief as
2 to the truth of the allegations of Paragraph 35and, therefore, denies the same.

3 4 DEFENSES

5 36. Defendant Skarpelos admits NATCO is entitled to an order allowing it to
6 tender the stock certificates referenced in the Complaint (the "Disputed Stock") to the
7 Court or to hold onto such Disputed Stock until such time as the Court enters an
8 order declaring Defendant Skarpelos to be the sole, true and rightful owner of all of
9 the Disputed Stock, but to the extent the allegations in the Complaint could be
10 interpreted as establishing a claim of ownership to the Disputed Stock in the name of
11 Weiser Asset Management, Ltd., ("Weiser") the Complaint fails to state a claim upon
12 which relief may be granted.
13

14 37. Defendant Skarpelos is entitled to declaratory relief to the effect that he
15 is the sole, true and rightful owner of all of the Disputed Stock to the exclusion of
16 Weiser and any other person or entity who may claim ownership to the same on
17 account of, or derived from, Weiser's claims to the Disputed Stock.
18

19 38. To the extent Weiser claims ownership to any or all of the Disputed
20 Stock, such claims must be denied on the basis of estoppel.

21 39. To the extent Weiser claims ownership to any or all of the Disputed
22 Stock, such claims must be denied on the equitable doctrine of laches.

23 40. To the extent Weiser claims ownership to any or all of the Disputed
24 Stock, such claims must be denied on the basis no binding or enforceable contract
25 regarding the sale of the Disputed Stock by Skarpelos to Weiser, or any other person
26 or entity claiming through it, has ever been in existence.
27
28

1 41. Without admitting that an enforceable contract exists between
2 Skarpelos and Weiser, to the extent Weiser claims ownership to any or all of the
3 Disputed Stock under the terms of a contract, such claims must be denied for lack of
4 consideration.
5

6 42. Without admitting that an enforceable contract exists between
7 Skarpelos and Weiser, to the extent Weiser claims ownership to any or all of the
8 Disputed Stock under the terms of a contract, such claims must be denied for failure
9 of consideration.
10

11 43. Without admitting that an enforceable contract exists between
12 Skarpelos and Weiser, to the extent Weiser claims ownership to any or all of the
13 Disputed Stock under the terms of a contract, such claims must be denied by reason
14 of Weiser's breach of contract.
15

16 44. Without admitting that an enforceable contract exists between
17 Skarpelos and Weiser, to the extent Weiser claims ownership to any or all of the
18 Disputed Stock under the terms of a contract, such claims must be denied because
19 any contract under which Weiser claims to have been a registered stock broker,
20 stock agent or stock dealer is unenforceable on the basis of illegality.
21

22 45. To the extent Weiser claims ownership to any or all of the Disputed
23 Stock, such claims must be denied because of Weiser's fraudulent conduct.
24

25 46. To the extent Weiser claims ownership to any or all of the Disputed
26 Stock, such claims must be denied by reason of the statute of frauds.
27

28 47. To the extent Weiser claims ownership to any or all of the Disputed
Stock, such claims must be denied by reason of the running of the applicable statute
of limitations.

1 48. To the extent Weiser claims ownership to any or all of the Disputed
2 Stock, such claims have been knowingly and validly waived by Weiser.

3
4 49. Pursuant to the provisions of FRCP 11, at the time of filing this Answer
5 and Cross-Claim, all possible defenses may not have been alleged inasmuch as
6 insufficient facts and other relevant information may not have been available after a
7 reasonable inquiry and, therefore, Defendant Skarpelos reserves the right to amend
8 this Answer to assert additional defenses should additional defenses become evident
9 as a result of discovery in this matter.

10 WHEREAS Defendant Skarpelos prays for relief as follows:

11
12 1. For an order of the Court declaring him to be the sole, true and rightful
13 owner of all of the legal and equitable interests in and to the Disputed Stock;

14 2. For an order of the Court declaring that Weiser, or any other person or
15 entity claiming any ownership to the Disputed Stock through any claim of ownership
16 by Weiser, has no claim of ownership to the Disputed Stock, legal or equitable;

17 3. For an order of the Court authorizing NATCO to tender all of the
18 certificates evidencing the Disputed Stock to the Court or, alternatively, directing
19 NATCO to take no action regarding any of the Disputed Stock without a further order
20 of the Court;

21
22 4. For costs of suit;

23 5. For an award of reasonable attorney's fees incurred by Skarpelos in the
24 defense of the matters set forth in the Complaint; and

25 6. For such other and further relief as to the Court seems just and
26 equitable under the circumstances.

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**CROSS-CLAIM AS AGAINST DEFENDANT
WEISER ASSET MANAGEMENT, LTD.
(Declaratory Relief)**

Comes now Defendant/Cross-Claimant Athanasios Skarpelos ("Skarpelos"), by and through his attorneys Woodburn and Wedge, who complains and alleges as against Defendant/Cross-Defendant Weiser Asset Management, Ltd. ("Weiser") as follows:

1. By reason of the Allegations set forth in the Complaint filed herein on November 18, 2015, it is clear there is a dispute between Skarpelos and Weiser as to the ownership of the Disputed Stock.

2. For purposes of describing the nature of the dispute between Skarpelos and Weiser, Skarpelos hereby incorporates the allegations of the Complaint, the answer to the Complaint and the defenses to the Complaint herein as if set forth in their entirety.

3. By reason of the allegations of the Complaint and Skarpelos' answer and defenses thereto, a true and justiciable case and controversy exists between Skarpelos and Weiser as to the ownership of the Disputed Stock.

4. At all times relevant to the matters set forth in the Complaint and this Cross-Claim, Skarpelos was the sole, true and rightful owner of all of the legal and equitable interests in the Disputed Stock.

5. At no time relevant to the matters set forth in the Complaint and this Cross-Claim did Weiser, or any other person or entity making a claim through Weiser, have any right, title, interest or claim to any legal or equitable interests in the Disputed Stock by reason of contract or any other legal or equitable theory.

1 6. Pursuant to Chapter 30, Nevada Revised Statutes, Nevada courts may
2 issue declaratory judgments. Specifically, NRS §30.030 provides that "courts of
3 record shall have power to declare rights, status and other legal relations whether or
4 not further relief is or could be claimed."

5
6 7. By reason of Nevada's Declaratory Judgment statutes (NRS §§30.010,
7 et. seq.), Skarpelos is entitled to a declaratory judgment from this Court that he is the
8 sole, true and rightful owner of all of the legal and equitable interests in the Disputed
9 Stock.

10 WHEREFORE, Skarpelos prays for relief as follows:

11 1. For an order of the Court declaring him to be the sole, true and rightful
12 owner of all of the legal and equitable interests in and to the Disputed Stock;

13 2. For an order of the Court declaring that Weiser, or any other person or
14 entity claiming any ownership to the Disputed Stock through any claim of ownership
15 by Weiser, has no claim of ownership to the Disputed Stock, legal or equitable;

16 3. For an order of the Court directing NATCO to take such action as is
17 necessary to reflect in Anavex's corporate books and records that Skarpelos is the
18 sole, true and rightful owner of all of the legal and equitable interests in the Disputed
19 Stock;

20 4. For costs of suit;

21 5. For an award of reasonable attorney's fees incurred by Skarpelos in
22 connection with the prosecution of the Cross-Claim; and

23 6. For such other and further relief as to the Court seems just and
24 equitable under the circumstances.

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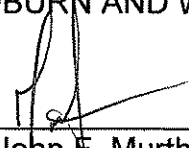
AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person whomsoever.

DATED this 18th day of February, 2016.

WOODBURN AND WEDGE

By



John F. Murtha, Esq.
W. Chris Wicker, Esq.
Attorneys for Defendant/
Cross-Claimant
Athanasios Skarpelos

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CERTIFICATE OF SERVICE

I certify that I am an employee of the law firm of Woodburn and Wedge, and that on the 18 day of February, 2016, I caused the foregoing document to be delivered to the parties entitled to notice in this action by:

✓ placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada

 personal delivery

 email

 electronic filing

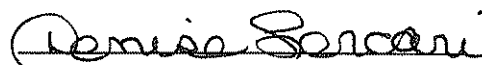
 Federal Express or other overnight delivery

as follows:

Alexander H. Walker III, Esq.
57 West 200 South, Ste. 400
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Clay P. Brust, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington Street
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Jeremy J. Nork, Esq.
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ALEXANDER H. WALKER III

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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER)

COMPANY, a Nevada corporation,)

Plaintiff,)

vs.)

Case No. CV15 02259

WEISER ASSET MANAGEMENT, LTD., a)

Bahamas company, WEISER (BAHAMAS))

LTD, a Bahamas company, ATHANASIOS)

SKARPELOS, an individual, and DOES 1)

through 10,)

Defendants.)

AMENDED COMPLAINT

COMES NOW, the above named Plaintiff, Nevada Agency and Transfer Company, by
and through its attorneys, and hereby alleges as follows:

1. Plaintiff Nevada Agency and Transfer Company ("NATCO") is a Nevada
corporation with its principal place of business located in Reno, Nevada.

2. Based upon information and belief Plaintiff alleges that Defendant Weiser Asset Management, Ltd. is a company organized and operated under the laws of the Bahamas.

3. Based upon information and belief, Plaintiff alleges that Defendant Weiser (Bahamas) Ltd. is a company organized and operated under the laws of the Bahamas, is also known as, or does business as, Weiser Ltd and has asserted a claim or interest in the subject matter detailed in this Amended Complaint.

4. Based upon information and belief Plaintiff alleges that Athanasios Skarpelos is an individual who resides in the nation of Greece.

5. Plaintiff does not know the true names and capacities of Defendants sued herein as DOES 1 through 10, inclusive, and therefore sues these Defendants by fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named Defendants are responsible in some actionable manner for the damages herein alleged. Plaintiff requests leave of Court to amend the Complaint to name such Defendants specifically when their identities become known.

GENERAL ALLEGATIONS

A. The Business of Nevada Agency and Transfer Company.

6. Since 1903, Plaintiff has been engaged in the stock transfer and registrar business. Plaintiff acts as the stock transfer agent and registrar for numerous corporations.

7. Companies, especially companies that have publicly traded securities, typically use transfer agents to keep track of the individuals and entities that own their stocks, bonds and other securities. Most transfer agents generally perform ministerial functions for corporations such as:

a. Issuing and canceling stock certificates to reflect changes in ownership;

1 b. Acting as an intermediary for the company for ministerial functions such as
2 paying cash and stock dividends, or other distributions to stockholders. In addition, transfer
3 agents act as proxy agent (sending out proxy materials), exchange agent (exchanging a
4 company's stock in a merger), tender agent (tendering shares in a tender offer), and mailing
5 agent (mailing the company's quarterly, annual, and other reports); and

6 c. Handling lost, destroyed, or stolen certificates. Transfer agents help
7 shareholders when a stock certificate has been lost, destroyed, or stolen.

8 8. As a transfer agent for public companies, NATCO is registered with the
9 Securities and Exchange Commission and NATCO operations are regularly inspected and
10 reviewed by examiners from the Securities and Exchange Commission.

11 **B. The Skarpelos's Lost Stock Affidavit**

12 9. During all time relevant to these allegations, NATCO has served as the transfer
13 agent and registrar for a Nevada corporation named Anavex Life Sciences Corp. ("Anavex").

14 10. On October 29, 2009, in the ordinary course of its business as Anavex's
15 transfer agent, NATCO effected a transfer of Anavex shares which had previously been
16 issued at the direction of Anavex's board of directors. As part of that transfer, NATCO issued
17 certificate number 753 registered in the name of Athanasios Skarpelos representing what was
18 then 6,633,332 shares of Anavex's common stock. Such shares were validly issued and
19 NATCO placed a restrictive legend on certificate 753 at the direction of Anavex and delivered
20 the share certificate to the registered owner.
21

22 11. On or about March 29, 2013, Defendant Skarpelos executed and delivered to
23 NATCO documentation, including an Affidavit for Lost Certificate, indicating that certificate
24 753, along with another Anavex certificate registered in his name, had been lost and requested
25 that NATCO issue a replacement certificate for the two lost certificates.

1 12. On that same date, Defendant Skarpelos executed and delivered to NATCO a
2 Stop Transfer Order under the terms of which Defendant Skarpelos, as the registered owner of
3 certificate number 753 instructed NATCO to place a “stop transfer order” against certificate
4 number 753.

5 13. At the time he requested the lost certificate, Defendant Skarpelos was the only
6 officer and director of Anavex.

7 14. As the only officer and director of Anavex, Defendant Skarpelos also executed
8 and delivered to NATCO a Corporate Indemnity to Nevada Agency and Transfer Company
9 for Reissuance of Lost Certificate under the terms of which Anavex agreed to “indemnify
10 Nevada Agency and Transfer Company against an and all costs, damages, actions, expenses,
11 and attorney’s fees which might result from the issuance of a duplicate certificate to replace”
12 certificate 753.

13 15. Based upon the representations of Defendant Skarpelos and Anavex, NATCO
14 issued a replacement certificate, certificate number 975 (the “Replacement Certificate”), for
15 the two lost certificates. NATCO also placed stop transfer orders against the two lost
16 certificates per the representations of Defendant Skarpelos and Anavex.

17
18 **C. Weiser’s Claim to Shares Represented by Certificate Number 753.**

19 16. On October 30, 2015, Defendant Weiser, through its attorney Ernesto Alvarez,
20 delivered an e-mailed letter to NATCO in which Defendant Weiser claimed:

21 a. on or about July 12, 2013, Defendant Skarpelos sold 3,316,666 shares of
22 common stock of Anavex, but did not mention to whom Defendant Skarpelos had sold such
23 shares;

24 b. Defendant Weiser had delivered to Nevada Agency and Transfer, in its
25

1 capacity as transfer agent for Anavex, certificate 753, though in fact as of October 30, 2015
2 Weiser had in fact not delivered certificate number 753 to NATCO;

3 c. Defendant Weiser had delivered to NATCO a stock power executed by
4 Defendant Skarpelos in favor of Defendant Weiser when Defendant Weiser had in fact not
5 delivered such a stock power;

6 d. Defendant Skarpelos has obtained the Replacement Certificate under false
7 pretenses; and,

8 e. that Defendant Weiser was a “protected purchaser” of 3,316,666 of Anavex
9 stock, though Defendant Weiser offered no documentation to support that claim.

10 17. In its October 30, 2015, letter to NATCO Defendant Weiser demanded
11 NATCO:

12 a. place a stop transfer restriction on the shares of Anavex represented by the
13 Replacement Certificate;

14 b. cancel that Replacement Certificate; and,

15 c. register on Anavex’s stock transfer records Weiser’s ownership of 3,316,666
16 share of Anavex common stock.

17 18. On or about November 3, 2015, NATCO, through its counsel, responded to
18 Defendant’s Weiser’s October 30, 2015 letter and asked Defendant Weiser to:

19 a. provide NATCO’s counsel with copies of the documents evidencing Defendant
20 Weiser’s claim that it had presented certificate number 753 to NATCO prior to October 30,
21 2015;

22 b. provide to NATCO’s counsel copies of certificate 753 and any instruction
23 Defendant Weiser claimed to have submitted to NATCO prior to October 30, 2015;
24
25

1 c. indicate, for purposes of Defendant Weiser's request for stop transfer
2 instructions, if Defendant Weiser was making a request under section 8-403 that the issuer not
3 register a transfer.

4 d. identify the facts that support Defendant's Weiser's claim that it was an
5 "appropriate person" as that term is identified under the applicable provisions of the Uniform
6 Commercial Code for purposes of requesting a stop transfer order.

7 19. As of the date of this complaint, Defendant Weiser has not:

8 a. provided NATCO's counsel with copies of the documents evidencing
9 Defendant Weiser's claim that it had presented certificate number 753 to NATCO prior to
10 October 30, 2015;

11 b. provided to NATCO's counsel copies of any instruction Defendant Weiser
12 claimed to have submitted to NATCO prior to October 30, 2015;

13 c. indicated, for purposes of Defendant Weiser's request for stop transfer
14 instructions, if Defendant Weiser was making a request under section 8-403 that the issuer not
15 register a transfer.

16 d. identified the facts that support Defendant's Weiser's claim that it was an
17 "appropriate person" as that term is identified under the applicable provisions of the Uniform
18 Commercial Code for purposes of requesting a stop transfer order in connection with the
19 Replacement Certificate.
20

21 20. On or about November 13, 2015, Defendant Weiser delivered an emailed letter
22 to counsel for NATCO which indicated that;

23 a. Anavex had delivered and was in the process of delivering to NATCO
24 certificate number 753 together with a stock power executed by Defendant Skarpelos in favor
25

1 of Defendant Weiser;

2 b. Defendant Weiser was providing to NATCO under separate letter instructions
3 for the transfer of 3,316,666 shares into the name of Defendant Weiser;

4 c. Defendant Weiser was a “protected purchaser” as that term is defined under
5 Nevada Revised Statute Section 104.8403 because Defendant Weiser had purchased a
6 certificated Security for value without notice of any adverse claim to the security at the time
7 of such purchase and thereafter obtained control of the certificated security.

8 21. As of the date of this complaint, Defendant Weiser has not provided
9 documentation that it had purchased shares represented by certificate 753 or the Replacement
10 Certificate.

11 22. On November 16, 2015, NATCO received certificate number 753 which
12 appeared to have been forwarded to NATCO by an entity known as Primoris Group. With
13 certificate number 753 NATCO received a stock power, or a copy of a stock power (the
14 “Stock Power”), which purports to be signed by the registered owner of certificate number
15 753 in blank, that is, while the stock power bears a signature, it does not contain instructions
16 regarding any transferee.

17 23. The signature on the Stock Power is not Medallion Guaranteed.

18 24. Certificate number 753 bears a restrictive legend which states, “[t]he shares
19 represented by this certificate have not been registered under the Securities Act of 1933, and
20 may not be sold, transferred or otherwise disposed unless in the opinion of counsel
21 satisfactory to the issuer, the transfer qualifies for an exemption from or exemption to the
22 registration provisions thereof.”

23 25. Defendant Weiser did not submit an opinion of counsel with its request to
24
25

1 transfer the shares represented by certificate number 753.

2 26. Defendant Weiser has not tendered any transfer fee to NATCO.

3 27. Defendant Weiser claims it will be damaged if NATCO does not immediately
4 transfer 3,316,666 shares of Anavex common stock to Defendant Weiser in the manner
5 Defendant Weiser has demanded.

6 **D. Defendant Skarpelos's Claim to Certificate Number 753.**

7 28. On November 2, 2015, NATCO forwarded a copy of Defendant Weiser's
8 October 30, 2015 letter to Defendant Skarpelos.

9 29. On or about November 12, 2015, Defendant Skarpelos, through his attorney,
10 informed NATCO and Defendant Weiser of Defendant Skarpelos's claim that:

11 a. Defendant Skarpelos did provide Defendant Weiser with certificates 753 and
12 660 representing shares of Anavex common stock in order to establish a brokerage account
13 with Defendant Weiser;

14 b. Defendant Weiser had represented itself to Defendant Skarpelos as a registered
15 broker-dealer.

16 c. The process of opening Defendant Skarpelos's account with Defendant Weiser
17 was not going smoothly.

18 d. Defendant Skarpelos learned that Defendant Weiser was not a properly
19 licensed broker-dealer in the United States.

20 e. Defendant Skarpelos tried many times to reach his contact at Defendant Weiser
21 to get his shares back, but was unsuccessful in connecting with anyone in authority at
22 Defendant Weiser.

23 f. Defendant Skarpelos became alarmed when Defendant Weiser stopped
24
25

1 answering its phones.

2 g. Defendant Skarpelos was worried that Defendant Weiser was not reliably
3 holding the shares he had delivered to Defendant Weiser, including the shares represented by
4 certificate number 753, and contacted NATCO to see about cancelling the share certificates
5 he had delivered to Weiser and getting a new one.

6 h. Through his efforts, Defendant Skarpelos obtained the Replacement
7 Certificate.

8 i. In July of 2013, Defendant Weiser did re-establish contact with Defendant
9 Skarpelos and informed him Defendant Weiser would like to arrange the sale of Defendant
10 Skarpelos's shares of Anavex common stock.

11 j. Defendant Skarpelos was prepared to sell his Anavex shares on the right
12 conditions and did sign a purchase agreement on July 9, 2013 with regard to the sale of shares
13 represented by the Replacement Certificate, not the shares represented by certificate 753, a
14 certificate which had been cancelled.

15 k. Defendant Skarpelos kept in his possession the original Replacement
16 Certificate together with the original Stock Power. Defendant Skarpelos did not deliver the
17 original signed Stock Power to Defendant Weiser.

18 l. Defendant Skarpelos would only deliver the original Replacement Certificate
19 and Stock Power to Defendant Weiser after the purchase price had been paid.

20 m. The purchase price for the shares subject to any agreement between Defendant
21 Skarpelos and Defendant Weiser never has been paid.

22 n. The terms of any sale agreement between Defendant Skarpelos and Defendant
23 Weiser have expired.
24
25

1 o. Defendant Weiser is not a protected purchaser because defendant Weiser never
2 gave value for the share it claims, and cannot claim that it did not have notice of an adverse
3 claim.

4 p. Defendant Weiser knew and knows that Defendant Skarpelos lays claim to the
5 shares which Defendant Weiser claims, and knew and knows Defendant Skarpelos has not
6 sold such shares.

7 q. Defendant Weiser is holding certificate 753, and the other cancelled Anavex
8 certificate, improperly.

9 r. Certificate 753, and the other cancelled certificate, should be returned to
10 NATCO to complete the record of cancellation.

11 **E. Defendant Weiser (Bahamas) Ltd claim.**

12 30. Following the filing of the Complaint in this matter, counsel for Weiser
13 accepted service of process on Weiser's behalf and appeared as counsel for Weiser in this
14 matter.
15

16 31. After appearing in this matter, counsel for Weiser indicated that an entity
17 known as Weiser (Bahamas) Ltd, also known as or doing business as Weiser Ltd, ("Weiser
18 Bahamas") asserts a claim to the shares of Anavex and/or the Replacement Certificate similar
19 to, or identical to, the claims asserted by Weiser, and that Weiser Bahamas is an appropriate
20 party to be named in this matter for the resolution of the claims identified in this Amended
21 Complaint.

22 32. Based upon the information obtained by Plaintiff from Defendant Weiser
23 Bahamas following the filing of the Complaint, Plaintiff alleges that Defendant Weiser
24 Bahamas asserts claims or interests in the Replacement Certificate identical or similar to the
25

1 claims asserted by Defendant Weiser and therefore Defendant Weiser Bahamas should be
2 subject to this action and that Plaintiff is entitled to relief against Weiser Bahamas identical or
3 similar to the relief Plaintiff seeks herein against Weiser.

4 **FIRST CLAIM FOR RELIEF**
5 **(Interpleader of Shares)**

6 33. Plaintiff incorporates the allegations of the paragraphs above as though fully
7 set forth herein.

8 34. Defendant Weiser, Defendant Weiser Bahamas and Defendant Skarpelos have
9 asserted claims to the shares represented by certificate number 753 which are adverse to one
10 another.

11 35. NATCO cannot determine which defendant is entitled to the shares represented
12 by certificate 753.

13 36. As such NATCO is a disinterested stakeholder who may be exposed to
14 multiple liabilities.

15 37. NATCO stands ready willing and able to tender certificate number 753 to the
16 Court or take action in connection with certificate number 753 as the Court directs.

17 38. NATCO is entitled to an order of the Court which:

18 a. requires Defendant Weiser, Defendant Weiser Bahamas and Defendant
19 Skarpelos to litigate their respective claims to certificate number 753 herein;

20 b. releases and forever discharges NATCO from liability related to or arising
21 from the competing claims of the Defendants to certificate number 753;

22 c. directs NATCO, upon resolution of the Defendants' competing claims, to
23 transfer, cancel or otherwise dispose of the shares represented by certificate 753 as the Court
24 deems legally proper, fair, just and equitable.
25

1 39. Plaintiff is entitled to its attorneys fees and costs in connection with this action.

2 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them,
3 as follows:

4 1. For an order of the Court which:

5 a. requires Defendant Weiser, Defendant Weiser Bahamas and Defendant
6 Skarpelos to litigate their respective claims to certificate number 753 herein;

7 b. releases and forever discharges NATCO from liability related to or arising
8 from the competing claims of the Defendants to certificate number 753;

9 c. directs NATCO, upon resolution of the Defendants' competing claims, to
10 transfer, cancel or otherwise dispose of the share represented by certificate 753 as the Court
11 deems legally proper, fair, just and equitable.

12 2. For costs of suit, including reasonable attorneys fees, incurred herein; and,

13 3. For such other and further relief as the Court may deem just and proper.

14
15 **AFFIRMATION**
16 **Pursuant to NRS 239B.030**

17 The undersigned does hereby affirm that the preceding document and/or attachments
18 do not contain the social security number of any person.

19 Dated this 29th day of April, 2016.

20 ALEXANDER H. WALKER III

21
22 /s/ Alexander H. Walker III

23 Alexander H. Walker III

24 ALEXANDER H. WALKER III, LLC

25 57 West 200 South, Suite 400

 Salt Lake City, Utah 84101

 Attorney for Nevada Agency and Transfer Co.

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2016, I caused to be served a copy of the foregoing on all parties via the Court's electronic filing system.

/s/ Alexander H. Walker III
Alexander H. Walker III
ALEXANDER H. WALKER III, LLC
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Attorney for Nevada Agency and Transfer Co.

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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada Corporation,
Plaintiff,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, ATHANASIOS
SKARPELOS, an individual, and DOES 1
through 10,
Defendants.

Case No. CV15 02259

Dept. No. 10

CONSENT TO FILE AMENDED COMPLAINT

Pursuant to Rule 15(a) of the Nevada Rules of Civil Procedure, Plaintiff seeks to amend
its complaint in this action and the undersigned, counsel for each of the Defendants, consents to
the filing of an amendment to the complaint.

1 Dated this 26th day of April, 2016.

2
3
4 Alexander H. Walker III
ALEXANDER H. WALKER III, LLC
5 57 West 200 South, Suite 400
6 Salt Lake City, Utah 84101
Attorney for Nevada Agency and Transfer Co.

7 Dated this 12th day of April, 2016.

8
9
10 John Murtha
WOODBURN & WEDGE
11 6100 Neil Road, Suite 500
12 Reno, Nevada 89511-1149
Attorney for Athanasios Skarpelos

13 Dated this 14th day of April, 2016.

14
15
16 Jeremy Nork
HOLLAND & HART
17 5441 Kietzke Lane
18 Reno, Nevada 89511
19 Attorney for Weiser Asset Management, Ltd.
20 and Weiser (Bahamas), Ltd.
21
22
23
24
25

1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 29th day of April, 2016, I caused to be served a copy of the
3 foregoing on all parties via the Court's electronic filing system.

4 AFFIRMATION

5 Pursuant to NRS 239B.030

6 The undersigned does hereby affirm that the preceding document and/or attachments do
7 not contain the social security number of any person.

8 /s/ Alexander H. Walker III

9 Alexander H. Walker III

10 ALEXANDER H. WALKER III, LLC

57 West 200 South, Suite 400

11 Salt Lake City, Utah 84101

12 Attorney for Nevada Agency and Transfer Co.

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Attorneys for Defendant/Cross-Claimant
Athanasios Skarpelos

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada corporation,

Plaintiff,

vs.

Case No. CV15-02259
Dept. No. 10

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company; WEISER (BAHAMAS)
LTD., a Bahamas company, ATHANASIOS
SKARPELOS, an individual; and
DOES 1-10,

Defendants.

ATHANASIOS SKARPELOS, an individual

Cross-Claimant,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, and WEISER (BAHAMAS)
LTD., a Bahamas company,

Cross-Defendants.

**ANSWER TO AMENDED COMPLAINT AND CROSS-CLAIM
(By Defendant Skarpelos)**

Defendant Athanasios Skarpelos, by and through his counsel Woodburn and Wedge, hereby answers the Amended Complaint filed herein on April 29, 2016, as follows:

1. The allegation in Paragraph 1 is admitted.
2. Defendant Skarpelos is without sufficient information to form a belief as to the truth of the allegation in Paragraph 2 and, therefore, denies the same.
3. Defendant Skarpelos is without sufficient information to form a belief as to the truth of the allegations of Paragraph 3 and, therefore, denies the same.
4. The allegation in Paragraph 4 is admitted.
5. No answer is required to the allegations of Paragraph 5, but out of an abundance of caution Defendant Skarpelos repeats and realleges each and every admission, denial and other response set forth above.
6. The allegations of Paragraph 6 are admitted.
7. The allegations of Paragraph 7 are admitted.
8. Defendant Skarpelos is without sufficient information to form a belief as to the truth of the allegation in Paragraph 8 and, therefore, denies the same.
9. The allegation in Paragraph 9 is admitted.
10. The allegations of Paragraph 10 are admitted.
11. The allegations of Paragraph 11 are admitted.
12. The allegations of Paragraph 12 are admitted.
13. Responding to the allegations of Paragraph 13, Defendant Skarpelos admits he has been an officer and director of Anavex Life Sciences Corp. ("Anavex"),

1 but cannot recall whether he was Anavex's sole officer and director at the time
2 indicated in Paragraph 13 and, therefore, denies the same.

3
4 14. Responding to the allegations of Paragraph 14, Defendant Skarpelos
5 admits he has been an officer and director of Anavex, but cannot recall whether he
6 was Anavex's sole officer or director at the time indicated in Paragraph 14 and,
7 therefore, denies the same.

8
9 15. Responding to the allegations of Paragraph 15, Defendant Skarpelos
10 admits NATCO issued the Replacement Certificate, but it is without sufficient
11 information to form a belief as to the truth of the remaining allegations of Paragraph 15
12 and, therefore, denies the same.

13
14 16. Responding to the allegations of Paragraph 16, Defendant Skarpelos
15 admits Defendant Weiser sent a letter to NATCO, but he denies the truth of the matters
16 asserted in the letter and affirmatively pleads that Defendant Weiser has absolutely no
17 claim, legal or equitable, to any Anavex stock arising out of, related to, or derived from
18 any of the stock certificates referenced in the Amended Complaint.

19
20 17. Responding to the allegations of Paragraph 17, Defendant Skarpelos
21 admits Defendant Weiser sent the letter to NATCO, but he denies Defendant Weiser
22 has any right to make the claims asserted in the letter and affirmatively pleads that
23 Defendant Weiser has absolutely no claim, legal or equitable, to any Anavex stock
24 arising out of, related to, or derived from any of the stock certificates referenced in the
25 Amended Complaint.

26 18. The allegations of Paragraph 18 are admitted.

27 19. The allegations of Paragraph 19 are admitted.

1 20. Defendant Skarpelos is without sufficient information to form a belief as
2 to the truth of the allegations of Paragraph 20 and, therefore, denies the same.

3 21. The allegation in Paragraph 21 is admitted.

4 22. Defendant Skarpelos is without sufficient information to form a belief as
5 to the truth of the allegations of Paragraph 22 and, therefore, denies the same.

6 23. Defendant Skarpelos is without sufficient information to form a belief as
7 to the truth of the allegation in Paragraph 23 and, therefore, denies the same.

8 24. The allegation in Paragraph 24 is admitted.

9 25. Defendant Skarpelos is without sufficient information to form a belief as
10 to the truth of the allegation in Paragraph 25 and, therefore, denies the same.

11 26. Defendant Skarpelos is without sufficient information to form a belief as
12 to the truth of the allegation in Paragraph 26 and, therefore, denies the same.

13 27. Defendant Skarpelos is without sufficient information to form a belief as
14 to the truth of the allegation in Paragraph 27 and, therefore, denies the same.

15 28. The allegation in Paragraph 28 is admitted.

16 29. The allegations of Paragraph 29 are admitted.

17 30. The allegations of Paragraph 30 are admitted.

18 31. Defendant Skarpelos is without sufficient information to form a belief as
19 to the truth of the allegations of Paragraph 31 and, therefore, denies the same.

20 32. Defendant Skarpelos is without sufficient information to form a belief as
21 to the truth of the allegations of Paragraph 32 and, therefore, denies the same.

22 33. No answer is required to the allegation in Paragraph 33, but out of an
23 abundance of caution Defendant Skarpelos repeats and realleges each and every
24 admission, denial and other response set forth above.
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1 42. To the extent Weiser or Bahamas claim ownership to any or all of the
2 Disputed Stock, such claims must be denied on the basis of estoppel.

3 43. To the extent Weiser or Bahamas claim ownership to any or all of the
4 Disputed Stock, such claims must be denied on the equitable doctrine of laches.

5 44. To the extent Weiser or Bahamas claim ownership to any or all of the
6 Disputed Stock, such claims must be denied on the basis no binding or enforceable
7 contract regarding the sale of the Disputed Stock by Skarpelos to Weiser, Bahamas or
8 any other person or entity claiming through them, has ever been in existence.

9 45. Without admitting that an enforceable contract exists between Skarpelos
10 and Weiser or Bahamas, to the extent Weiser or Bahamas claim ownership to any or
11 all of the Disputed Stock under the terms of a contract, such claims must be denied for
12 lack of consideration.

13 46. Without admitting that an enforceable contract exists between Skarpelos
14 and Weiser or Bahamas, to the extent Weiser or Bahamas claim ownership to any or
15 all of the Disputed Stock under the terms of a contract, such claims must be denied for
16 failure of consideration.

17 47. Without admitting that an enforceable contract exists between Skarpelos
18 and Weiser or Bahamas, to the extent Weiser or Bahamas claim ownership to any or
19 all of the Disputed Stock under the terms of a contract, such claims must be denied by
20 reason of Weiser's and/or Bahamas' breaches of contract.

21 48. Without admitting that an enforceable contract exists between Skarpelos
22 and Weiser or Bahamas, to the extent Weiser or Bahamas claim ownership to any or
23 all of the Disputed Stock under the terms of a contract, such claims must be denied
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1 because any contract under which Weiser or Bahamas claim to have been a registered
2 stock broker, stock agent or stock dealer is unenforceable on the basis of illegality.

3 49. To the extent Weiser or Bahamas claim ownership to any or all of the
4 Disputed Stock, such claims must be denied because of Weiser's and/or Bahamas'
5 fraudulent conduct.
6

7 50. To the extent Weiser or Bahamas claim ownership to any or all of the
8 Disputed Stock, such claims must be denied by reason of the statute of frauds.

9 51. To the extent Weiser or Bahamas claim ownership to any or all of the
10 Disputed Stock, such claims must be denied by reason of the running of the applicable
11 statutes of limitations.
12

13 52. To the extent Weiser or Bahamas claim ownership to any or all of the
14 Disputed Stock, such claims have been knowingly and validly waived by Weiser and
15 Bahamas.
16

17 53. Pursuant to the provisions of FRCP 11, at the time of filing this Answer
18 to Amended Complaint and Cross-Claim, all possible defenses may not have been
19 alleged inasmuch as insufficient facts and other relevant information may not have
20 been available after a reasonable inquiry and, therefore, Defendant Skarpelos
21 reserves the right to amend this Answer to assert additional defenses should additional
22 defenses become evident as a result of discovery in this matter.

23 WHEREAS Defendant Skarpelos prays for relief as follows:

24 1. For an order of the Court declaring him to be the sole, true and rightful
25 owner of all of the legal and equitable interests in and to the Disputed Stock;

26 2. For an order of the Court declaring that Weiser, Bahamas or any other
27 person or entity claiming any ownership to the Disputed Stock through any claim of
28

ownership by Weiser or Bahamas, have no claim of ownership to the Disputed Stock, legal or equitable;

3. For an order of the Court authorizing NATCO to tender all of the certificates evidencing the Disputed Stock to the Court or, alternatively, directing NATCO to take no action regarding any of the Disputed Stock without a further order of the Court;

4. For costs of suit;

5. For an award of reasonable attorney's fees incurred by Skarpelos in the defense of the matters set forth in the Complaint; and

6. For such other and further relief as to the Court seems just and equitable under the circumstances.

**CROSS-CLAIM AS AGAINST DEFENDANTS
WEISER ASSET MANAGEMENT, LTD. AND
WEISER (BAHAMAS) LTD.
(Declaratory Relief)**

Comes now Defendant/Cross-Claimant Athanasios Skarpelos ("Skarpelos"), by and through his attorneys Woodburn and Wedge, who complains and alleges as against Defendants/Cross-Defendants Weiser Asset Management, Ltd. ("Weiser") and Weiser (Bahamas) Ltd. ("Bahamas") as follows:

1. By reason of the Allegations set forth in the Amended Complaint filed herein on April 29, 2016, it is clear there is a dispute between Skarpelos, Weiser and Bahamas as to the ownership of the Disputed Stock.

2. For purposes of describing the nature of the dispute between Skarpelos, Weiser and Bahamas, Skarpelos hereby incorporates the allegations of: (a) the

1 Amended Complaint; (b) his Answer to the Amended Complaint set forth above; and
2 (c) his defenses to the Amended Complaint also set forth above as if set forth in their
3 entirety.
4

5 3. By reason of the allegations of the Amended Complaint and Skarpelos'
6 answer and defenses thereto, a true and justiciable case and controversy exists
7 between Skarpelos, Weiser and Bahamas as to the ownership of the Disputed Stock.

8 4. At all times relevant to the matters set forth in the Amended Complaint
9 and this Cross-Claim, Skarpelos was the sole, true and rightful owner of all of the legal
10 and equitable interests in the Disputed Stock.
11

12 5. At no time relevant to the matters set forth in the Amended Complaint
13 and this Cross-Claim did Weiser, Bahamas or any other person or entity making a
14 claim through them, have any right, title, interest or claim to any legal or equitable
15 interests in the Disputed Stock by reason of contract or any other legal or equitable
16 theory.
17

18 6. Pursuant to Chapter 30, Nevada Revised Statutes, Nevada courts may
19 issue declaratory judgments. Specifically, NRS §30.030 provides that "courts of record
20 shall have power to declare rights, status and other legal relations whether or not
21 further relief is or could be claimed."

22 7. By reason of Nevada's Declaratory Judgment statutes (NRS §§30.010,
23 et. seq.), Skarpelos is entitled to a declaratory judgment from this Court that he is the
24 sole, true and rightful owner of all of the legal and equitable interests in the Disputed
25 Stock.
26

27 ///

28 ///

1 WHEREFORE, Skarpelos prays for relief as follows:

2 1. For an order of the Court declaring him to be the sole, true and rightful
3 owner of all of the legal and equitable interests in and to the Disputed Stock;
4

5 2. For an order of the Court declaring that Weiser, Bahamas or any other
6 person or entity claiming any ownership to the Disputed Stock through any claim of
7 ownership by Weiser or Bahamas have no claim of ownership to the Disputed Stock,
8 legal or equitable;
9

10 3. For an order of the Court directing NATCO to take such action as is
11 necessary to reflect in Anavex's corporate books and records that Skarpelos is the
12 sole, true and rightful owner of all of the legal and equitable interests in the Disputed
13 Stock;
14

15 4. For costs of suit;

16 5. For an award of reasonable attorney's fees incurred by Skarpelos in
17 connection with the prosecution of the Cross-Claim; and
18

19 For such other and further relief as to the Court seems just and equitable under the
20 circumstances.
21

22 DATED this 23rd day of May, 2016.
23

24 WOODBURN AND WEDGE

25 By 

26 John F. Murtha, Esq.
27 W. Chris Wicker, Esq.
28 Attorneys for Defendant/
Cross-Claimant
Athanasios Skarpelos

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person whomsoever.

DATED this 23rd day of May, 2016.

WOODBURN AND WEDGE

By 

John F. Murtha, Esq.
W. Chris Wicker, Esq.
Attorneys for Defendant/
Cross-Claimant
Athanasios Skarpelos

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CERTIFICATE OF SERVICE

I certify that I am an employee of the law firm of Woodburn and Wedge, and that on the 23rd day of May, 2016, I caused the foregoing document to be delivered to the parties entitled to notice in this action by:

_____ placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada

_____ personal delivery

_____ email

X _____ electronic filing

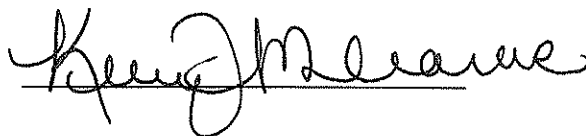
_____ Federal Express or other overnight delivery

as follows:

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Robison, Belaustegui, Sharp & Low
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Jeremy J. Nork, Esq.
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1 **1137**

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4 HOLLAND & HART LLP
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7 Tel: (775) 327-3000; Fax: (775) 786-6179
8 jnork@hollandhart.com
9 fzlaforge@hollandhart.com

6 Attorneys for Defendants/Cross-claimants Weiser

7
8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR THE COUNTY OF WASHOE**

10 NEVADA AGENCY AND TRANSFER
11 COMPANY, a Nevada Corporation,

12 Plaintiff,

13 v.

14 WEISER ASSET MANAGEMENT, LTD.,
15 a Bahamas company, WEISER
16 (BAHAMAS) LTD, a Bahamas company,
17 ATHANASIOS SKARPELOS, an
18 individual, and DOES 1 through 10,

17 Defendants.

19 WEISER ASSET MANAGEMENT, LTD.,
20 a Bahamas company, WEISER
21 (BAHAMAS) LTD., a Bahamas company,

21 Cross-claimants,

22 v.

23 ATHANASIOS SKARPELOS, an
24 individual,

24 Cross-defendant.

Case No. CV15-02259

Dept. No. 10

WEISER'S ANSWER AND CROSS-CLAIM

25
26
27 Defendants/Cross-claimants Weiser Asset Management, Ltd. and Weiser (Bahamas)
28 Ltd. (collectively "Weiser"), by and through counsel Holland & Hart LLP, for their answer to

1 Nevada Agency And Transfer Co.'s ("NATCO") Amended Complaint, hereby admit, deny, and
2 allege as follows:

3 1. Weiser is without knowledge or information sufficient to form a belief as to the
4 truth or accuracy of the allegation in this paragraph and therefore denies each and every
5 allegation.

6 2. Admit.

7 3. Admit.

8 4. Weiser is without knowledge or information sufficient to form a belief as to the
9 truth or accuracy of the allegation in this paragraph and therefore denies each and every
10 allegation.

11 5. The allegation in this paragraph contains a legal assertion to which no reply is
12 required.

13 **GENERAL ALLEGATIONS**

14 6. Weiser is without knowledge or information sufficient to form a belief as to the
15 truth or accuracy of the allegation in this paragraph and therefore denies each and every
16 allegation.

17 7. Weiser is without knowledge or information sufficient to form a belief as to the
18 truth or accuracy of the allegation in this paragraph and therefore denies each and every
19 allegation.

20 a. Weiser is without knowledge or information sufficient to form a belief as to the
21 truth or accuracy of the allegation in this paragraph and therefore denies each and every
22 allegation.

23 b. Weiser is without knowledge or information sufficient to form a belief as to the
24 truth or accuracy of the allegation in this paragraph and therefore denies each and every
25 allegation.

26 c. Weiser is without knowledge or information sufficient to form a belief as to the
27 truth or accuracy of the allegation in this paragraph and therefore denies each and every
28 allegation.

1 8. Weiser is without knowledge or information sufficient to form a belief as to the
2 truth or accuracy of the allegation in this paragraph and therefore denies each and every
3 allegation.

4 9. Weiser is without knowledge or information sufficient to form a belief as to the
5 truth or accuracy of the allegation in this paragraph and therefore denies each and every
6 allegation.

7 10. Weiser is without knowledge or information sufficient to form a belief as to the
8 truth or accuracy of the allegation in this paragraph and therefore denies each and every
9 allegation.

10 11. Weiser is without knowledge or information sufficient to form a belief as to the
11 truth or accuracy of the allegation in this paragraph and therefore denies each and every
12 allegation.

13 12. Weiser is without knowledge or information sufficient to form a belief as to the
14 truth or accuracy of the allegation in this paragraph and therefore denies each and every
15 allegation.

16 13. Weiser is without knowledge or information sufficient to form a belief as to the
17 truth or accuracy of the allegation in this paragraph and therefore denies each and every
18 allegation.

19 14. Weiser is without knowledge or information sufficient to form a belief as to the
20 truth or accuracy of the allegation in this paragraph and therefore denies each and every
21 allegation.

22 15. Weiser is without knowledge or information sufficient to form a belief as to the
23 truth or accuracy of the allegation in this paragraph and therefore denies each and every
24 allegation.

25 16. Admit.

26 a. The document referenced in this paragraph speaks for itself. Weiser
27 denies the remaining allegations of this paragraph to the extent they are
28 inconsistent with such document.

1 b. The document referenced in this paragraph speaks for itself. Weiser
2 denies the remaining allegations of this paragraph to the extent they are
3 inconsistent with such document.

4 c. The document referenced in this paragraph speaks for itself. Weiser
5 denies the remaining allegations of this paragraph to the extent they are
6 inconsistent with such document.

7 d. The document referenced in this paragraph speaks for itself. Weiser
8 denies the remaining allegations of this paragraph to the extent they are
9 inconsistent with such document.

10 e. The document referenced in this paragraph speaks for itself. Weiser
11 denies the remaining allegations of this paragraph to the extent they are
12 inconsistent with such document.

13 17. The document referenced in this paragraph speaks for itself. Weiser denies the
14 remaining allegations of this paragraph to the extent they are inconsistent with such document.

15 a. The document referenced in this paragraph speaks for itself. Weiser
16 denies the remaining allegations of this paragraph to the extent they are
17 inconsistent with such document.

18 b. The document referenced in this paragraph speaks for itself. Weiser
19 denies the remaining allegations of this paragraph to the extent they are
20 inconsistent with such document.

21 c. The document referenced in this paragraph speaks for itself. Weiser
22 denies the remaining allegations of this paragraph to the extent they are
23 inconsistent with such document.

24 18. Weiser admits that counsel for NATCO responded to Weiser's letter. But the
25 document referenced in this paragraph speaks for itself. Weiser denies the remaining allegations
26 of this paragraph to the extent they are inconsistent with such document.

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- a. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
 - b. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
 - c. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
 - d. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
19. There is no allegation in this part of the paragraph to which Weiser must respond.
- a. Deny.
 - b. Deny.
 - c. Deny.
 - d. Deny.
20. Admit.
- a. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
 - b. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.
 - c. The letter referenced in this paragraph speaks for itself. Weiser denies the remaining allegations of this paragraph to the extent they are inconsistent with such document.

- 1 21. Deny.
- 2 22. Weiser is without knowledge or information sufficient to form a belief as to the
3 truth or accuracy of the allegation in this paragraph and therefore denies each and every
4 allegation.
- 5 23. Weiser is without knowledge or information sufficient to form a belief as to the
6 truth or accuracy of the allegation in this paragraph and therefore denies each and every
7 allegation.
- 8 24. Weiser is without knowledge or information sufficient to form a belief as to the
9 truth or accuracy of the allegation in this paragraph and therefore denies each and every
10 allegation.
- 11 25. Deny.
- 12 26. Deny.
- 13 27. Admit.
- 14 28. Weiser is without knowledge or information sufficient to form a belief as to the
15 truth or accuracy of the allegation in this paragraph and therefore denies each and every
16 allegation.
- 17 29. Weiser is without knowledge or information sufficient to form a belief as to the
18 truth or accuracy of the allegation in this paragraph and therefore denies each and every
19 allegation.
- 20 a. Weiser is without knowledge or information sufficient to form a belief as
21 to the truth or accuracy of the allegation in this paragraph and therefore
22 denies each and every allegation.
- 23 b. Weiser is without knowledge or information sufficient to form a belief as
24 to the truth or accuracy of the allegation in this paragraph and therefore
25 denies each and every allegation.
- 26 c. Weiser is without knowledge or information sufficient to form a belief as
27 to the truth or accuracy of the allegation in this paragraph and therefore
28 denies each and every allegation.

- d. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- e. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- f. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- g. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- h. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- i. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- j. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- k. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- l. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.

- m. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- n. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- o. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- p. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- q. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.
- r. Weiser is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegation in this paragraph and therefore denies each and every allegation.

30. Admit.

31. Admit.

32. The allegation in this paragraph contains a legal assertion to which no reply is required.

FIRST CLAIM FOR RELIEF

(Interpleader of Shares)

33. No response is required to the allegation in this paragraph.

34. Admit.

1 35. Weiser is without knowledge or information sufficient to form a belief as to the
2 truth or accuracy of the allegation in this paragraph and therefore denies each and every
3 allegation.

4 36. The allegation in this paragraph contains a legal assertion to which no reply is
5 required.

6 37. The allegation in this paragraph contains a legal assertion to which no reply is
7 required.

8 38. The allegation in this paragraph contains a legal assertion to which no reply is
9 required.

10 a. The allegation in this paragraph contains a legal assertion to which no
11 reply is required.

12 b. The allegation in this paragraph contains a legal assertion to which no
13 reply is required.

14 c. The allegation in this paragraph contains a legal assertion to which no
15 reply is required.

16 d. The allegation in this paragraph contains a legal assertion to which no
17 reply is required.

18 39. The allegation in this paragraph contains a legal assertion to which no reply is
19 required.

20 As for separate affirmative defenses, Weiser alleges:

21 **FIRST AFFIRMATIVE DEFENSE**

22 Weiser is the rightful owner of the stock at issue in NATCO's complaint.

23 **SECOND AFFIRMATIVE DEFENSE**

24 Pursuant to the provisions of Rule 11 of the Rules of Civil Procedure, at the time of the
25 filing of Weiser's Answer, all possible affirmative defenses may not have been alleged
26 inasmuch as facts and other relevant information may not have been available after reasonable
27 inquiry, and therefore, Weiser reserves the right to amend this Answer to allege affirmative
28 defenses if subsequent investigation warrants the same.

WHEREFORE, Weiser prays for relief as follows:

1. An order declaring Weiser to be the sole owner of the stock in dispute;
2. An order that NATCO immediately deliver to Weiser appropriate certificates of the stock in dispute;
3. For an award of attorney's fees and costs to Weiser; and
4. All other appropriate relief.

WEISER'S CROSS-CLAIM AGAINST DEFENDANT SKARPELOS

Weiser, through its attorneys of record, alleges as follows

1. Cross-claimant Weiser is organized and operated under the laws of the Bahamas.
2. On information and belief, Weiser believes that cross-defendant Athanasios Skarpelos resides in and is a citizen of Greece.
3. In July 2013, Weiser and Skarpelos entered into a contract for the sale of a certain amount of stock. Skarpelos, the former owner of the stock, agreed to sell it to Weiser.
4. Weiser performed under the contract.
5. Skarpelos, although he initially transferred the stock, later took actions with NATCO that essentially negated the transfer.
6. As generally set forth in NATCO's Amended Complaint, there is a dispute between Weiser and Skarpelos as to the ownership of the stock.
7. Weiser is the rightful owner of the stock and has suffered damages from Skarpelos's actions concerning the stock.
8. As a result of Skarpelos's actions, Weiser has been required to retain the services of Holland & Hart LLP and is entitled to a reasonable award of attorney's fees therefor.

FIRST CLAIM

(Declaratory Judgment)

9. Weiser realleges the allegations in paragraphs above as though set forth fully herein.

10. Weiser and Skarpelos have each asserted competing and conflicting claims over the entitlement to the stock at issue in their July 2013 contract.

11. Weiser is entitled to a declaration from the Court under NRS §33.010, *et seq.* that it is the rightful owner of the stock.

SECOND CLAIM

(Breach Of Contract)

12. Weiser realleges the allegations in paragraphs above as though set forth fully herein.

13. Weiser and Skarpelos entered into a binding contract in July 2013 concerning the sale of certain stock.

14. Weiser performed under the contract.

15. Skarpelos initially performed by transferring the stock but later took actions that effectively negated the transfer. These later actions constitute a breach of the parties' contract.

16. Weiser has suffered damages in excess of \$10,000 from Skarpelos's breach.

THIRD CLAIM

(Breach Of The Covenant Of Good Faith And Fair Dealing)

17. Weiser realleges the allegations in paragraphs above as though set forth fully herein.

18. The aforementioned contract contained an implied covenant of good faith and fair dealing, which Skarpelos triggered upon the execution of the contract .

19. After executing the contract, Skarpelos acted unfaithfully to the purpose of the contract by, among other things, undermining Weiser's ownership of the stock.

20. As a result of Skarpelos's actions, Weiser's justified expectations under the contract have been denied.

21. As a result of Skarpelos's actions, Weiser has been damaged in an amount in excess of \$10,000.

WHEREFORE, Weiser respectfully requests judgment against Skarpelos as follows:

1. For an order of the Court declaring Weiser to be the legal and rightful owner of the stock;
2. For an award of damages in an amount in excess of \$10,000.00;
3. For costs of suit and reasonable attorney's fees; and
4. For such other and further relief as the Court deems just, proper, and equitable.

The undersigned affirms that this document does not contain the social security number of any person.

DATED this 23rd day of May, 2016

By /s/ Jeremy J. Nork
Jeremy J. Nork (SBN 4017)
Frank Z. LaForge (SBN 12246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511
Telephone: (775) 327-3000
Facsimile: (775) 786-6179
jnork@hollandhart.com
fzlaforge@hollandhart.com

Attorneys for Defendants/Cross-claimants
Weiser

1 **CERTIFICATE OF SERVICE**

2 I, Martha Hauser, certify:

3 I am employed in the City of Reno, County of Washoe, State of Nevada by the law
4 offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor,
Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

5 On May 23, 2016, I electronically filed the foregoing **WEISER'S ANSWER AND**
6 **CROSS CLAIM**, with the Clerk of the Second Judicial District Court via the Court's e-Flex
system. Service will be made by e-Flex on all registered participants.

7 Alexander H. Walker III, Esq.
8 awalkerlaw@aol.com

9 Clayton P. Brust
10 ROBISON, BELAUSTEGUI, SHARP & LOW
cbrust@rbsllaw.com

11 John F. Murtha
12 W. Chris Wicker
13 WOODBURN AND WEDGE
jmurtha@woodburnandwedge.com
cwicker@woodburnandwedge.com

14
15 /s/ Martha Hauser
16 Martha Hauser
17
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fzlaforge@hollandhart.com

Attorneys for Defendants/Cross-claimants Weiser

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada Corporation,

Plaintiff,

v.

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company, WEISER
(BAHAMAS) LTD, a Bahamas company,
ATHANASIOS SKARPELOS, an
individual, and DOES 1 through 10,

Defendants.

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company, WEISER
(BAHAMAS) LTD., a Bahamas company,

Cross-claimants,

v.

ATHANASIOS SKARPELOS, an
individual,

Cross-defendant.

Case No. CV15-02259

Dept. No. 10

**WEISER'S ANSWER TO
SKARPELOS'S CROSS-CLAIM**

Defendants/Cross-claimants Weiser Asset Management, Ltd. and Weiser (Bahamas)
Ltd. (collectively "Weiser"), by and through counsel Holland & Hart LLP, for their answer to

defendant and cross-claimant Athanasios Skarpelos's Cross-Claim Against Defendants Weiser Asset Management, Ltd. And Weiser (Bahamas) Ltd. hereby admit, deny, and allege as follows:

1. Admit.

2. Weiser incorporates its responses to plaintiff Nevada Agency And Transfer Co.'s ("NATCO")'s amended complaint as set forth in Weiser's Answer And Cross-Claim.

3. Admit.

4. Deny.

5. Deny.

6. This paragraph contains a legal conclusion to which to response is required.

7. Deny.

As for separate affirmative defenses, Weiser alleges:

FIRST AFFIRMATIVE DEFENSE

Weiser is the rightful owner of the stock at issue in NATCO's complaint.

SECOND AFFIRMATIVE DEFENSE

Skarpelos was and remains contractually obligated to deliver the disputed stock to Weiser.

THIRD AFFIRMATIVE DEFENSE

Skarpelos is barred by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Skarpelos's right to the stock is barred by his knowing and intentional waiver.

FIFTH AFFIRMATIVE DEFENSE

Skarpelos's right to the stock is barred by the doctrine of estoppel.

SIXTH AFFIRMATIVE DEFENSE

Skarpelos's right to the stock is barred by his fraudulent conduct. In particular, Skarpelos represented to Weiser that the parties had a contract by which Skarpelos would transfer the disputed stock and acted consistently with that representation. On information and belief, Weiser believes that Skarpelos, despite his representations, at some point changed his mind when the value of the stock rose.

SEVENTH AFFIRMATIVE DEFENSE

Skarpelos is barred from retaining the full amount of the disputed stock by the doctrine of unjust enrichment.

EIGHTH AFFIRMATIVE DEFENSE

Skarpelos is barred from retaining the full amount of the disputed stock because he has failed to reasonably mitigate any damages.

NINTH AFFIRMATIVE DEFENSE

Pursuant to the provisions of Rule 11 of the Rules of Civil Procedure, at the time of the filing of Weiser's Answer, all possible affirmative defenses may not have been alleged inasmuch as facts and other relevant information may not have been available after reasonable inquiry, and therefore, Weiser reserves the right to amend this Answer to allege affirmative defenses if subsequent investigation warrants the same.

WHEREFORE, Weiser prays for relief as follows:

1. An order declaring Weiser to be the sole owner of the stock in dispute;
2. An order that NATCO immediately deliver to Weiser appropriate certificates of the stock in dispute;
3. For an award of attorney's fees and costs to Weiser; and
4. All other appropriate relief.

The undersigned affirms that this document does not contain the social security number of any person.

DATED this 15th day of June, 2016

By /s/ Jeremy J. Nork
Jeremy J. Nork (SBN 4017)
Frank Z. LaForge (SBN 12246)
HOLLAND & HART LLP
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Telephone: (775) 327-3000
Facsimile: (775) 786-6179

Attorneys for Defendants/Cross-claimants
Weiser

1 **CERTIFICATE OF SERVICE**

2 I, Martha Hauser, certify:

3 I am employed in the City of Reno, County of Washoe, State of Nevada by the law
4 offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor,
Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

5 On June 15, 2016, I electronically filed the foregoing **WEISER'S ANSWER TO**
6 **SKARPELOS'S CROSS-CLAIM**, with the Clerk of the Second Judicial District Court via
the Court's e-Flex system. Service will be made by e-Flex on all registered participants.

7 Alexander H. Walker III, Esq.
8 awalkerlaw@aol.com

9 Clayton P. Brust
10 ROBISON, BELAUSTEGUI, SHARP & LOW
cbrust@rbsllaw.com

11 John F. Murtha
12 W. Chris Wicker
13 WOODBURN AND WEDGE
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cwicker@woodburnandwedge.com

14
15 /s/ Martha Hauser
16 Martha Hauser
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Attorneys for Defendant/Cross-Claimant
Athanasios Skarpelos

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada corporation,

Plaintiff,

vs.

Case No. CV15-02259
Dept. No. 10

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company; WEISER (BAHAMAS)
LTD., a Bahamas company, ATHANASIOS
SKARPELOS, an individual; and
DOES 1-10,

**SKARPELOS' ANSWER TO
WEISER'S CROSS-CLAIM**

Defendants.

ATHANASIOS SKARPELOS, an individual

Cross-Claimant,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, and WEISER (BAHAMAS)
LTD., a Bahamas company,

Cross-Defendants.

1
2 WEISER ASSET MANAGEMENT, LTD.,
3 A Bahamas company, WEISER
(BAHAMAS) LTD., a Bahamas company,

4 Cross-Claimants,

5 vs.

6 ATHANASIOS SKARPELOS, an
7 individual,

8 Cross-Defendant.
9

10 **SKARPELOS' ANSWER TO WEISER'S CROSS-CLAIM**
11

12 Defendant Athanasios Skarpelos, by and through his counsel Woodburn and
13 Wedge, hereby answers WEISER'S CROSS-CLAIM AGAINST DEFENDANT
14 SKARPELOS filed by Weiser Asset Management, Ltd., ("Weiser") and Weiser
15 (Bahamas) Ltd. ("Bahamas") (collectively "Weiser") as follows:
16

- 17 1. Cross-Defendant Skarpelos is without sufficient information to form a
18 belief as to the truth of the allegations in Paragraph 1 and, therefore, denies the same.
19 2. Responding to Paragraph 2, Skarpelos admits he resides in Greece.
20 3. Paragraph 3 is denied.
21 4. Paragraph 4 is denied.
22 5. Paragraph 5 is denied.
23 6. Paragraph 6 is admitted.
24 7. Paragraph 7 is denied.
25 8. Paragraph 8 is denied.
26 9. No response is needed as to Paragraph 9.
27
28

10. Responding to Paragraph 10, Skarpelos admits there is a dispute between himself and Weiser regarding the ownership of the stock which forms the basis for the Plaintiff's interpleader complaint (the "Disputed Stock").

11. Paragraph 11 is denied.

12. No response is needed as to Paragraph 12.

13. Paragraph 13 is denied.

14. Paragraph 14 is denied.

15. Paragraph 15 is denied.

16. Paragraph 16 is denied.

17. No response is needed as to Paragraph 17.

18. Paragraph 18 is denied.

19. Paragraph 19 is denied.

20. Paragraph 20 is denied.

21. Paragraph 21 is denied.

DEFENSES

1. Defendant Skarpelos is entitled to declaratory relief to the effect that he is the sole, true and rightful owner of all of the Disputed Stock to the exclusion of Weiser or anyone else claiming through Weiser.

2. To the extent Weiser claims ownership to any or all of the Disputed Stock, such claims must be denied on the basis of estoppel.

3. To the extent Weiser claims ownership to any or all of the Disputed Stock, such claims must be denied on the equitable doctrine of laches.

4. To the extent Weiser claims ownership to any or all of the Disputed Stock, such claims must be denied on the basis no binding or enforceable contract regarding

1 the sale of the Disputed Stock by Skarpelos to Weiser or any other person or entity
2 claiming through them, has ever been in existence.

3
4 5. Without admitting that an enforceable contract exists between Skarpelos
5 and Weiser, to the extent Weiser claims ownership to any or all of the Disputed Stock
6 under the terms of a contract, such claims must be denied for lack of consideration.

7 6. Without admitting that an enforceable contract exists between Skarpelos
8 and Weiser, to the extent Weiser claims ownership to any or all of the Disputed Stock
9 under the terms of a contract, such claims must be denied for failure of consideration.

10 7. Without admitting that an enforceable contract exists between Skarpelos
11 and Weiser, to the extent Weiser claims ownership to any or all of the Disputed Stock
12 under the terms of a contract, such claims must be denied by reason of Weiser's
13 breaches of contract.

14
15 8. Without admitting that an enforceable contract exists between Skarpelos
16 and Weiser, to the extent Weiser claims ownership to any or all of the Disputed Stock
17 under the terms of a contract, such claims must be denied because any contract under
18 which Weiser claims to have been a registered stock broker, stock agent or stock
19 dealer is unenforceable on the basis of illegality.

20
21 9. Without admitting that an enforceable contract exists between Skarpelos
22 and Weiser, to the extent Weiser claims ownership to any or all of the Disputed Stock
23 under the terms of a contract, such claims must be denied because of Weiser's fraud
24 in the inducement

25 10. To the extent Weiser claims ownership to any or all of the Disputed Stock,
26 such claims must be denied by reason of the statute of frauds.
27
28

1 11. To the extent Weiser claims ownership to any or all of the Disputed Stock,
2 such claims must be denied by reason of the running of the applicable statutes of
3 limitations.
4

5 12. To the extent Weiser claims ownership to any or all of the Disputed Stock,
6 such claims have been knowingly and validly waived by Weiser.

7 13. To the extent Weiser may have had claims against Skarpelos, relief
8 should be denied by reason of Weiser's failure to mitigate its damages.

9 14. Pursuant to the provisions of FRCP 11, at the time of filing this Answer,
10 all possible defenses may not have been alleged inasmuch as insufficient facts and
11 other relevant information may not have been available after a reasonable inquiry and,
12 therefore, Defendant Skarpelos reserves the right to amend this Answer to assert
13 additional defenses should additional defenses become evident as a result of
14 discovery in this matter.
15

16 WHEREAS Defendant Skarpelos prays for relief as follows:

17 1. For an order of the Court declaring him to be the sole, true and rightful
18 owner of all of the legal and equitable interests in and to the Disputed Stock to the
19 exclusion of all other persons and entities including, but not limited to, Weiser,
20 Bahamas or any person or entity claiming through Weiser or Bahamas;
21

22 2. For an order of the Court authorizing NATCO to tender all of the
23 certificates evidencing the Disputed Stock to Skarpelos;


24 3. For costs of suit;

25 4. For an award of reasonable attorney's fees incurred by Skarpelos in the
26 defense of the matters set forth in Weiser's Cross-Claim; and
27
28

1 5. For such other and further relief as to the Court seems just and equitable
2 under the circumstances.
3

4 DATED this 17th day of June, 2016.

5 WOODBURN AND WEDGE
6


7 By 
8 John F. Murtha, Esq.
9 W. Chris Wicker, Esq.
10 Attorneys for Defendant/
11 Cross-Claimant/Cross-
12 Defendant Athanasios Skarpelos

13 **AFFIRMATION**
14 **Pursuant to NRS 239B.030**

15 The undersigned does hereby affirm that the above-entitled document filed in
16 this matter does not contain the social security number of any person whomsoever.

17 DATED this 17th day of June, 2016.

18 WOODBURN AND WEDGE
19

20 By 
21 John F. Murtha, Esq.
22 W. Chris Wicker, Esq.
23 Attorneys for Defendant/
24 Cross-Claimant/Cross-
25 Defendant Athanasios Skarpelos
26
27
28

1
2
3 **CERTIFICATE OF SERVICE**
4

5 I certify that I am an employee of the law firm of Woodburn and Wedge, and that
6 on the 17 day of June, 2016, I caused the foregoing document to be delivered to
7 the parties entitled to notice in this action by:

8 ✓ placing a true copy thereof in a sealed, stamped envelope with the
9 United States Postal Service at Reno, Nevada

10 _____ personal delivery

11 _____ email

12 _____ electronic filing

13 _____ Federal Express or other overnight delivery

14 as follows:

15 Alexander H. Walker III, Esq.
16 57 West 200 South, Ste. 400
17 Salt Lake City, Utah 84101

18 Clay P. Brust, Esq.
19 Robison, Belaustegui, Sharp & Low
20 71 Washington Street
21 Reno, NV 89503

22 Jeremy J. Nork, Esq.
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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER)

COMPANY, a Nevada corporation,)

Plaintiff,)

vs.)

Case No. CV15 02259

WEISER ASSET MANAGEMENT, LTD., a)

Bahamas company, WEISER (BAHAMAS))

LTD, a Bahamas company, ATHANASIOS)

SKARPELOS, an individual, and DOES 1)

through 10,)

Defendants.)

JOINT CASE MANAGEMENT REPORT

On August 1, 2016, counsel for Plaintiff, Alexander H. Walker III, counsel for Defendant Athanasios Skarpelos, John Murtha, and counsel for Defendants Weiser Asset Management, LTD and Weiser (Bahamas) LTD (together the “Weiser Defendants”), Frank LaForge, met at the offices of Holland and Hart on 5441 Kietzke Lane, Reno, Nevada and conferred for the purpose of conducting an early case conference pursuant to Rule 16.1(b)(1)

1 of the *Nevada Rules of Civil Procedure*. Pursuant to Rule 16.1(c) of the *Nevada Rules of*
2 *Civil Procedure*, the parties hereby submit their Joint Case Conference Report.

3 **1. Nature of the Case**

4 **a. Plaintiff's Claims:** Plaintiff is the stock transfer agent for a Nevada
5 corporation named Anavex Life Science Corp. In its ordinary course of
6 business, Plaintiff received a stock certificate representing shares of
7 common stock of Anavex along with a request to effect a transfer of
8 ownership of such shares on the books and records of Anavex. Defendant
9 Skarpelos and the Weiser Defendants claim an ownership interest in the
10 certificate received by Plaintiff and each refutes the claimed ownership
11 interest of other. Plaintiff brought this interpleader action in order to
12 resolve the Defendants' ownership dispute.

13 **b. Defendant Skarpelos' Defenses and Claims:**

14 Defendant Skarpelos acknowledged Plaintiff's role as the stock transfer
15 agent for Anavex, but asserted that at no time had he conveyed the stock
16 at issue to any person or entity and, therefore, claimed full ownership of
17 the stock. Answers to the allegations of the complaint and the defenses
18 raised in Defendant Skarpelos' answer were consistent with this position.
19 Additionally, Defendant Skarpelos filed cross-claims against the Weiser
20 Defendants seeking declaratory relief that Skarpelos is the true and
21 rightful owner of the stock.

22 **c. The Weiser Defendants Defenses and Claims:**

23 **1. The Weiser Defendants' cross-claims against Skarpelos.**

- 24 1. Declaratory judgment for title of the disputed stock.
- 25 2. Breach of the parties' July 2013 contract.
3. Breach of the covenant of good faith and fair dealing concerning
the parties' July 2013 contract.

1 **2. The Weiser Defendants' defenses to Skarpelos's cross-claims:**

- 2 1. Weiser is the rightful owner of the stock at issue in NATCO's
- 3 complaint.
- 4 2. Skarpelos was and remains contractually obligated to deliver
- 5 the disputed stock to Weiser.
- 6 3. Skarpelos is barred by the doctrine of unclean hands.
- 7 4. Skarpelos's right to the stock is barred by his knowing and
- 8 intentional waiver.
- 9 5. Skarpelos's right to the stock is barred by the doctrine of
- 10 estoppel.
- 11 6. Skarpelos's right to the stock is barred by his fraudulent
- 12 conduct. In particular, Skarpelos represented to Weiser that
- 13 the parties had a contract by which Skarpelos would transfer
- 14 the disputed stock and acted consistently with that
- 15 representation. On information and belief, Weiser believes
- 16 that Skarpelos, despite his representations, at some point
- 17 changed his mind when the value of the stock rose.
- 18 7. Skarpelos is barred from retaining the full amount of the
- 19 disputed stock by the doctrine of unjust enrichment.
- 20 8. Skarpelos is barred from retaining the full amount of the
- 21 disputed stock because he has failed to reasonably mitigate
- 22 any damages.
- 23 9. Pursuant to the provisions of Rule 11 of the Rules of Civil
- 24 Procedure, at the time of the filing of Weiser's Answer, all
- 25 possible affirmative defenses may not have been alleged
- inasmuch as facts and other relevant information may not
- have been available after reasonable inquiry, and therefore,

1 Weiser reserves the right to amend this Answer to allege
2 affirmative defenses if subsequent investigation warrants the
3 same.

4 **2. Planning for Discovery:** Pursuant to Rule 16.1(b)(2), the parties discussed
5 the following topics with regard to discovery:

6 **a. Subjects of Discovery:** The parties agree that the scope of discovery will
7 not be limited and will include all subjects relating to the ownership of
8 the disputed stock.

9 **b. Timing and Limitations:** The parties agree that the following
10 chronology of discovery and applicable deadlines is appropriate in this
11 matter. All deadlines that would fall on a holiday or weekend will instead
12 be held on the first subsequent non-holiday weekday.

13 **i. Initial Disclosures:** Due on or before August 15, 2016.
14 Defendant Skarpelos' initial disclosures were delivered to counsel
15 for Plaintiff and counsel for the Weiser Defendants at the Early
16 Case Management Conference. The Weiser Defendants served
17 their initial disclosures on August 12, 2016.

18 **ii. Initial Expert Disclosures:** Expert disclosures under Rule
19 16.1(a)(2) must be made no later than 90 days before the close of
20 discovery: March 9, 2017.

21 **iii. Rebuttal Expert Disclosures:** Rebuttal expert disclosures must
22 be made no later than 30 days after the initial expert disclosures:
23 April 10, 2017.

24 **iv. Cutoff for motions to amend pleadings or add parties:** Motions
25 to amend the pleadings or add parties must be filed no later than
90 days before the close of discovery: March 9, 2017.

v. Discovery cutoff: The parties agree that all discovery, including

1 the time for responses to discovery propounded under Rules 26
2 through 37 of the *Nevada Rules of Civil Procedure*, must be
3 complete within 300 days of NRCP 16.1 early case conference
4 that was held on August 1, 2016: June 7, 2017.

5 **vi. Dispositive Motion Cutoff:** Any dispositive motions must be
6 filed no later than 30 days after the close of discovery: July 5,
7 2017.

8 **3. List of names exchanges pursuant to Rule 16.1(a)(1)(A):** See Attachment
9 “A.”

10 **4. List of documents provided pursuant to Rule 16.1(a)(1)(B):** See
11 Attachment “B.”

12 **5. Estimated time required for trial:** The parties estimate three (3) to five (5)
13 days will be required for a trial in this matter.

14 **6. Jury Demand:** No jury demand has been made by either party.

15 **AFFIRMATION**
16 **Pursuant to NRS 239B.030**

17 The undersigned do hereby affirm that the preceding document and/or
18 attachments do not contain the social security number of any person.

19 DATED this 23rd day of August, 2016.

20 /s/ Alexander H. Walker III
21 Alexander H. Walker III
22 ALEXANDER H. WALKER III, LLC
23 57 West 200 South, Suite 400
24 Salt Lake City, Utah 84101
25 Attorney for Nevada Agency and Transfer Co.

/s/ John Murtha

John Murtha
WOODBURN & WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511-1149
Attorney for Athanasios Skarpelos

/s/ Frank LaForge

Jeremy Nork
Frank Laforge
HOLLAND & HART
5441 Kietzke Lane
Reno, Nevada 89511
Attorney for Weiser Asset Management, Ltd.
and Weiser (Bahamas), Ltd.

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1. Names provided by Plaintiff:

2. Amanda Cardinalli, president, Nevada Agency and Transfer Company. Ms. Cardinalli can be contacted through counsel for Plaintiff. Ms. Cardinalli has information regarding NATCO's operations and NATCO's actions taken in connection with the issues identified in the complaint and amended complaint.

1. Anthanasios Skarpelos ("Skarpelos")
c/o John F. Murtha, Esq.
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511

2. Lambros Pedafronimos
c/o John F. Murtha, Esq.
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511

Mr. Pedafronimos has knowledge regarding Skarpelos' dealings with Defendant/Counter Defendant Weiser.

1 3. Alexander H. Walker III
2 57 West 200 South
3 Suite 400
4 Salt Lake City, Utah 84101

5 Mr. Walker has knowledge regarding the stock ownerships of Anavex Life
6 Sciences Corp. and Skarpelos' claims to the stock at issue in this litigation.

7 4. Cristos Livadas
8 Contact Information Unknown

9 Mr. Livadas has knowledge regarding Skarpelos' attempt to open an account
10 with Weiser and Weiser's purported ownership of the stock at issue in the litigation.

11 5. Howard Bruce Daniels
12 Contact Information Unknown

13 Mr. Daniels has knowledge regarding Skarpelos' attempt to open an account
14 with Weiser and Weiser's purported ownership of the stock at issue in the litigation.

15 6. Specific Person Unknown at This Time
16 Equity Trust Bahamas Limited
17 Contact Information Unknown

18 On May 31, 2011, Skarpelos and Daniels met at Equity Trust Bahamas
19 Limited for the purpose of having his passport certified.

20 7. Nick Boutsalis
21 Primoris Group
22 160 Eglinton Ave. East #602
23 Toronto, Ontario M4P 3B5

24 Mr. Boutsalis has knowledge regarding delivery of purportedly executed
25 Anavex Life Sciences stock certificate no. 753 to Alex H. Walker III.

8 Any other persons identified by any of the other parties to the litigation.

3. Names provided by the Weiser Defendants:

1. Person Most Knowledgeable for Weiser Asset Management, LTD
c/o Holland & Hart LLC
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511

1 Weiser Asset Management, LTD's PMK has knowledge regarding dealings with
2 Athanasios Skarpelos, Nevada Agency and Transfer Co., and other parties related to this suit.
3 Weiser's PMK also has knowledge about Weiser Asset Management, LTD's general
4 business practices.

- 5 2. Person Most Knowledgeable, Weiser (Bahamas) LTD
6 c/o Holland & Hart LLC
7 5441 Kietzke Lane, 2nd Floor
8 Reno, NV 89511

9 Weiser (Bahamas) LTD's PMK has knowledge regarding dealings with Skarpelos,
10 Nevada Agency and Transfer Co., and other parties related to this suit. Weiser (Bahamas)
11 LTD's PMK also has knowledge about Weiser (Bahamas) LTD's general business practices.

- 12 3. Christos Livadas
13 c/o Holland & Hart LLC
14 5441 Kietzke Lane, 2nd Floor
15 Reno, NV 89511

16 Livadas has knowledge regarding the Weiser entities' dealings with Skarpelos,
17 Nevada Agency and Transfer Co., and other parties related to this suit. Livadas also has
18 knowledge about the Weiser entities' general business practices.

- 19 4. Elias Soursos
20 c/o Holland & Hart LLC
21 5441 Kietzke Lane, 2nd Floor
22 Reno, NV 89511

23 Soursos has knowledge regarding the Weiser entities' dealings with Skarpelos,
24 Nevada Agency and Transfer Co., and other parties related to this suit. Soursos also has
25 knowledge about Weiser entities' general business practices.

5. Nick Boutsalis
Primoris Group
160 Eglinton Avenue East, #602
Toronto, Ontario M4P 3B5

1 Boutsalis has knowledge regarding the Weiser entities' dealings with Skarpelos,
2 Nevada Agency and Transfer Co., and other parties related to this suit. Boutsalis also has
3 knowledge of Anavex Life Sciences that may be pertinent to this action.

4 6. Lambros Pedafronimos
 Contact information currently unknown

5 Pedafronimos has knowledge regarding the Weiser entities' dealings with Skarpelos
6 concerning the disputed stock.

7 7. Person Most Knowledgeable for Nevada Agency and Transfer Co.
8 c/o Alexander H. Walker III
9 57 West 200 South, Suite 400
 Salt Lake City, UT 84101

10 Nevada Agency and Transfer Co.'s PMK has knowledge regarding the Weiser
11 entities and Skarpelos's claims to title of the stock in dispute in this action.

12 8. Alexander H. Walker III
13 57 West 200 South, Suite 400
 Salt Lake City, UT 84101

14 Walker has knowledge regarding the Weiser entities and Skarpelos's claims to title of
15 the stock in dispute in this action.

16 9. Person Most Knowledgeable for Anavex Life Sciences Corp.
17 51 West 52nd Street, 7th floor
 New York, NY 10019

18 Anavex Life Sciences Corp.'s PMK has knowledge concerning the disputed stock
19 that may be pertinent to this action.

20 10. All witnesses identified by any of the other parties to this litigation.

Attachment B

List of Documents Exchanged by the Parties

1. Documents identified by Plaintiff:

<u>Bates No.</u>	<u>Date</u>	<u>Description</u>
000001 - 000003	Undated	Stock Purchase Agreement
000004 - 000004	10/29/09	Anavex Stock Certificate No. 753, RNO Athanasios Skarpelos for 6,633,332 shares
000005 - 000005	1/10/13	Corporate Indemnity
000006 - 000007	3/28/13	Affidavit of Lost Certificate
000008 - 000008	3/29/13	Stop Transfer Order
000009 - 000016	4/4/13	NATCO transfer record for Anavex certificate no. 753
000017 - 000017	10/11/13	Email from Anavex to NATCO
000018 - 000025	10/11/13	NATCO email to Anavex
000026 - 000027	10/30/15	Montello Law letter (Ernesto A. Alvarez) to Nevada Agency and Trust
000028 - 000030	10/30/15	Ernesto A. Alvarez email to NATCO (with revised 10/30/15 letter attached)
000031 - 000031	11/2/15	Montello Law letter (Ernesto A. Alvarez) to NATCO
000032 - 000034	11/3/15	Email string between NATCO and Tom Skarpelos
000035 - 000035	11/3/15	Alexander H. Walker III Letter to Ernesto A. Alvarez
000036 - 000037	11/4/15	Clark Wilson letter to NATCO
000038 - 000038	11/12/15	Weiser Asset Management, Ltd letter to NATCO
000039 - 000040	11/12/15	Clark Wilson Letter to addressed to NATCO, written to Ernesto A. Alvarez
000041 - 000041	11/13/15	Montello Law Letter (Ernesto A. Alvarez) to Alexander H. Walker III
000042 - 000042	11/13/15	Montello Law Letter (Ernesto A. Alvarez) to NATCO
000043 - 000044	11/13/15	Email from NATCO to Anavex Life Science
000045 - 000048	11/13/15	Primoris Group letter to NATCO (with a copy of passport page for Athanasios Skarpelos and Anavex certificate number 753 and power of attorney)
000049 - 000049	11/16/15	Montello Law Letter (Ernesto A. Alvarez) to Alexander H. Walker III
000050 - 000063	11/18/15	Alexander H. Walker III email & letter to Ernesto A. Alvarez

2. Documents produced by Defendant Skarpelos:

DOCUMENTS	REFERENCE
Copy of Anavex Life Sciences Corp. stock certificate (650) dated September 24, 2007, representing 92,500 shares issued to Anthanasios Skarpelos	S001
Copy of Anavex stock certificate (753) dated October 29, 2009, representing 6,633,332 shares issued to Anthanasios Skarpelos	S002
Copy of Anavex stock certificate (753) dated October 29, 2009, representing 6,633,332 shares issued to Anthanasios Skarpelos with a blank Power of Attorney on reverse side	S003-004
Copy of Anthanasios Skarpelos' passport certified by Equity Trust Bahamas Limited	S005
Email chain dated between May 27, 2011, and May 30, 2011, between Anthanasios Skarpelos and Howard Daniels	S006
Corporate Indemnity to Nevada Agency and Transfer Company for Reissuance of Lost Certificate issued by Anavex Life Sciences dated January 10, 2013	S007
Affidavit for Lost Stock Certificate signed by Anthanasios Skarpelos dated March 28, 2013, regarding Anavex Life Sciences Stock Certificates 660 and 753	S008-009
Stop Transfer Order directed to Nevada Agency and Transfer Company issued by Anthanasios Skarpelos on March 29, 2013 regarding Anavex Life Sciences Stock	S010
Nevada Agency and Transfer Company's invoice for cancellation of Anavex Life Sciences stock certificates 660 and 753	S011
Series of email chains dated between June 24, 2013, and June 25, 2013, between Christos Livadas and Lambros Pedafronimos regarding proposed purchase and sale agreement	S012-016
Series of email chains dated between July 2, 2013, and July 9, 2013, between Christos Livadas and Lambros Pedafronimos regarding proposed purchase and sale agreement	S017-020

DOCUMENTS	REFERENCE
<p>Stock Sale and Purchase Agreement bearing Weiser Bates Stamps WEISER000196-198</p> <p>NOTE: SKARPELOS CHALLENGES THE AUTHENTICITY OF THIS DOCUMENT AND DEMANDS PRODUCTION OF THE ORIGINAL THEREOF</p>	<p>Not Separately Bates Stamped for Production by Skarpelos</p>
<p>Blank Power of Attorney to Transfer Bonds or Shares signed by Anthanasios Skarpelos for unknown stock certificate</p>	<p>S021</p>
<p>Completed Power of Attorney to Transfer Bonds or Shares signed by Anthanasios Skarpelos for Anavex Life Sciences stock certificate no. 753 bearing an unidentifiable Weiser Bates No.</p> <p>NOTE: SKARPELOS CHALLENGES THE AUTHENTICITY OF THIS DOCUMENT AND DEMANDS PRODUCTION OF THE ORIGINAL THEREOF</p>	<p>S022</p>
<p>Letter dated October 30, 2015, from Montello Law to Nevada Agency and Trust re: Transfer of Shares of Anavex Life Sciences Corp. Common Stock</p>	<p>S023-024</p>
<p>Letter dated November 3, 2015, from Alexander H. Walker III to Montello Law re: Anavex Life Sciences Corp.; Weiser Asset Management, Ltd. Common Stock</p>	<p>S025</p>
<p>Letter dated November 12, 2015, from Clark Wilson, LLP, to Nevada Agency and Transfer Company re: Claim of Weiser Asset Management Ltd.</p>	<p>S026-027</p>
<p>Letter dated November 13, 2015, from Montello Law to Alexander Walker III re: Transfer of Shares of Anavex Life Sciences Corp. Common Stock with enclosure (cover letter from Nick Boutsalis re: Anavex Life Sciences Stock Certificate No. 753)</p>	<p>S028-029</p>
<p>Letter dated November 13, 2015, from Montello Law to Nevada Agency and Transfer Company re: Transfer of Shares of Anavex Life Sciences Corp. Common Stock with enclosure (letter dated November 12, 2015, from Weiser Asset Management to Nevada Agency and Transfer Company re: Share Certificate SWAC Request)</p>	<p>S030-031</p>

3. Documents identified by the Weiser Defendants:

Pursuant to NRCP 16.1(a)(1)(B), Weiser produces documents reasonably available to it upon which it bases its claims, prayers for damages, or other relief, denials and/or defenses. Such documents are identified by Bates Nos. WEISER000001 through WEISER000380 and are produced concurrently herewith on CD. Also produced is Weiser's Privilege/Redaction Log.

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 NEVADA AGENCY AND TRANSFER
10 COMPANY, A Nevada Corporation,

11 Plaintiff,

Case No. CV15-02259

12 Dept. No. 10

13 vs.

14 WEISER ASSET MANAGEMENT, LTD., et al.,

15 Defendants.
16 _____/

17 **PRETRIAL ORDER**

18 The procedures described in this pretrial order are designed to secure a just,
19 speedy, and inexpensive determination of this case. If any party believes a procedure
20 required by this order will not achieve these ends, that party should seek an immediate
21 conference among all parties and this Court so an alternative order may be discussed.
22 **Otherwise, failure to comply with the provisions in this order may result in the**
23 **imposition of sanctions, which may include, but are not limited to, dismissal of the**
24 **action or entry of a default.** All references to "counsel" include self-represented litigants.

25 **I. TRIAL SETTING**

26 Unless the parties have already done so, counsel for the parties shall set trial no
27 later than 20 days after entry of this order. Please contact the Department 10 Judicial
28 Assistant at (775) 328-3530 to schedule a setting appointment. Plaintiff's counsel shall
prepare the Application for Setting form. The sections regarding juries only apply if a jury

1 trial is requested.

2 II. PRETRIAL CONFERENCES

3 A. **Early Pretrial and Scheduling Conference.** No later than ten days after
4 entry of this Order and simultaneously with the trial setting appointment if the trial has
5 not already been set, counsel for the parties shall set a pretrial scheduling conference, to be
6 held within 60 days.

7 1. Purpose. The pretrial scheduling conference provides the parties with
8 an opportunity to meet directly with the Court in an effort to facilitate the purposes
9 identified at NRCP 16(a), present suggestions regarding the matters identified at NRCP
10 16(c), and address disputes or problems arising out of the early case conference.

11 2. Required Attendance. Lead trial counsel for all parties, as well as all
12 unrepresented parties, must attend the pretrial scheduling conference.

13 3. Stipulation to Vacate Conference. **The parties may stipulate to vacate**
14 **the pretrial scheduling conference and the Court will order the same** if the Court is
15 provided with a written stipulation stating the agreement of all parties that an early
16 pretrial scheduling conference is not warranted, and including a stipulated scheduling
17 order for entry in this case. The stipulated scheduling order must specify deadlines, using
18 calendar dates, that comply with the provisions of NRCP 16.1(a) and (c) for:

19 (a) filing motions to amend the pleadings or to add
20 parties;

21 (b) making initial expert disclosures;

22 (c) making rebuttal expert disclosures;

23 (d) completing discovery proceedings; and

24 (e) filing dispositive motions.

25 The stipulated scheduling order also must specify a calendar date by which all pretrial
26 motions, including dispositive motions and motions limiting or excluding an expert's
27 testimony, must be submitted for decision, said submission date must be no later than 30
28 calendar days before trial.

1 B. **Interim Pretrial Conferences.** This Court is available to meet with the
2 parties whenever the parties agree a meeting would be beneficial. This Court may also
3 order one or more pretrial conferences sua sponte or upon motion by any party.

4 C. **Final Pretrial Conference.** At the same time trial is scheduled, the parties
5 must also schedule the date for a final pretrial conference, to be held no later than 30 days¹
6 prior to trial.

7 1. Purpose. The conference is intended to develop a plan for trial,
8 including a protocol for facilitating the admission of evidence and to address any trial-
9 related disputes, needs, or requests.

10 2. Required Attendance. This conference must be attended by:

11 (a) the attorneys who will try the case (the parties,
12 which includes an authorized representative of
13 any party that is an entity, may be required to
14 attend); and

15 (b) any unrepresented parties.

16 3. Use of Equipment at Trial. At the final pretrial conference, counsel
17 must advise the Court fully with respect to the following matters:

18 (a) the equipment to be used during trial, including
19 any request to use the Court's equipment;

20 (b) the presentation software to be used during trial,
21 and whether each party is able to receive and use
22 digital files of presentation materials prepared by
23 another;

24 (c) any expected use of videoconferencing; and

25 (d) the reliability and positioning for any equipment
26 to be brought to the courtroom.

27
28 ¹ See WDCR 6

1 D. **Personal Appearance Required at all conferences.** Counsel's personal
2 appearance is required at all conferences, except upon prior approval of the Court.

3 **III. DISCOVERY**

4 A. **Consultation Before Discovery Motion Practice.** Prior to filing any
5 discovery motion, the attorney for the moving party must consult with opposing counsel
6 about the disputed issues. Counsel for each side must present to each other the merits of
7 their respective positions with the same candor, specificity, and supporting material as
8 would be used in connection with a discovery motion. The Parties are reminded that the
9 Discovery Commissioner is available to address some disputes telephonically.

10 B. **Discovery Hearings.** Discovery motions typically are resolved without the
11 need for oral argument. However, if both sides desire a dispute resolution conference
12 pursuant to NRCP 16.1(d), counsel must contact the Discovery Commissioner's office at
13 (775) 328-3293 to obtain a convenient date and time for the conference. If the parties
14 cannot agree upon the need for a conference, the party seeking the conference must file
15 and submit a motion in that regard.

16 C. **Effect of Trial Continuance.** A continuance of trial does not extend the
17 deadline for completing discovery. A request for an extension of the discovery deadline, if
18 needed, must be made separately or included as part of any motion for continuance of
19 trial. The parties may include an agreement to extend discovery in a stipulation to
20 continue trial presented for court order.

21 D. **Computer Animations.** If any party intends to offer a computer-generated
22 animation either as an evidentiary exhibit or an illustrative aid, that party must disclose
23 that intention when expert disclosures are made pursuant to NRCP 16.1(a)(2). A copy of
24 the animation must be furnished to all other parties and the Court no later than 30 days
25 prior to trial. Disclosure of the animation includes copies of the underlying digital files as
26 well as of the completed animation.

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1 **IV. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION**

2 A. **Notice of Settlement.** In the event that this case is settled prior to trial, the
3 parties must promptly notify the department Judicial Assistant.

4 B. **Settlement Conference or Alternative Dispute Resolution.** This Court may
5 order, upon a party's request or sua sponte, that the parties and their attorneys 1) meet in
6 person with a judge other than the presiding judge in this case and attempt to settle the
7 case, or 2) participate in mediation or some other appropriate form of alternative dispute
8 resolution in an effort to resolve this case prior to trial.

9 **V. TRIAL-RELATED PROCEDURES**

10 A. **Motions in Limine.** All motions in limine, except motions in limine to
11 exclude an expert's testimony, must be submitted for decision no later than 15 calendar
12 days before trial.

13 B. **All Other Motions.** All motions, except motions in limine as defined above,
14 must be submitted for decision no later than 30 calendar days before trial.

15 C. **Exhibits.** Trial counsel for the parties shall contact the Courtroom Clerk,
16 Mikki White , no later than ten judicial days before trial, to arrange a date and time to
17 mark trial exhibits. In no event shall the marking of exhibits take place later than the
18 Monday before trial, without leave of the Court.

19 1. Marking and Objections. All exhibits shall be marked in one
20 numbered series (Exhibit 1, 2, 3, etc.) and placed in one or more binders provided by
21 counsel, unless the Court permits a different procedure. When marking the exhibits with
22 the clerk, counsel shall advise the clerk of all exhibits which may be admitted without
23 objection, and those that may be admissible subject to objections. Any exhibits not timely
24 submitted to opposing counsel and the clerk may not be offered or referenced during the
25 trial, without leave of the Court.

26 2. Copies. Counsel must cooperate to insure that the official exhibits and
27 one identical copy are provided to the Court.
28

1 3. Custody of Exhibits. After marking trial Exhibits by the clerk, the
2 exhibits will remain in the custody of the clerk, until an order is issued directing the
3 disposition or return to counsel.

4 4. Demonstrative Exhibits. Demonstrative Exhibits must be disclosed to
5 counsel and the Court within a reasonable period before their anticipated use to permit
6 appropriate objections, if any.

7 D. **Trial Statements**. Trial Statements must conform to WDCR 5. Trial
8 Statements must be filed and served no later than 5:00 p.m. five calendar days before trial,
9 unless otherwise ordered by the Court. They must be served upon other parties by e-
10 filing, personal delivery, fax, or email.

11 E. **Jury Instructions and Verdict Forms**. All proposed jury instructions and
12 verdict forms must be submitted to the Court no later than 5:00 p.m. on the Wednesday
13 before trial, unless otherwise ordered by the court.²

14 1. Format. All original jury instructions must be accompanied by a
15 separate copy of each instruction containing a citation to the form instruction or to the
16 authority supporting that instruction. All modifications made to instructions taken from
17 statutory authority must be separately underscored on the citation page.

18 2. Exchange. The parties must exchange all proposed jury instructions
19 and verdict forms no later than seven calendar days before trial, unless otherwise ordered
20 by the Court.

21 3. Agreement and Submission. The parties must confer regarding the
22 proposed jury instructions and verdict forms before they are submitted to the Court and
23 shall use their best efforts to stipulate to uncontested instructions. All undisputed
24 instructions and verdict forms must be submitted jointly to the Court; the parties must
25 separately submit any disputed instructions and verdict forms.

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² See WDCR 7(8).

4. Disputes and Additional Instructions. After commencement of the trial, the Court will meet with counsel to determine the jury instructions and verdict forms that will be used. At that time, the Court will resolve all disputes over instructions and verdict forms, and consider the need for any additional instructions which were not foreseen prior to trial.

F. **Juror Notes and Questions.** Jurors will be permitted to take notes during trial. Jurors will be permitted to submit questions in writing during trial; however, juror questions will be asked only after the questions are reviewed by counsel and approved by the Court.

G. Use of Electronically Recorded Depositions. No depositions recorded by other than stenographic means may be edited until the Court rules on objections. If such a recording is to be used at trial, it must be edited to eliminate cumulative testimony and to present only matters that are relevant and material.

H. **Evidentiary Rulings.** Every witness that counsel intends to call at trial must be informed by counsel about any rulings that restrict or limit testimony or evidence (e.g., rulings on motions in limine) to inform them that they may not offer or mention any evidence that is subject to that ruling.

I. **Examination Limits.** Absent extraordinary circumstances, counsel will be given the opportunity for one re-direct and one re-cross examination.

VI. MISCELLANEOUS

A. **Civility.** The use of language which characterizes the conduct, arguments or ethics of another is to be avoided unless relevant to a motion or proceeding before the Court. In the appropriate case, the Court will upon motion or sua sponte, consider sanctions, including monetary penalties and/or striking the pleading or document in which such improprieties appear, and may order any other suitable measure the Court deems to be justified. This section of this Order includes, but is not limited to, written material exchanged between counsel, briefs or other written materials submitted to the Court, and conduct at depositions, hearings, trial or meetings with the Court.

1 B. **Communication with Department.** In addition to communication by
2 telephone, letter, or fax, counsel may communicate with Department 10 by e-mailing the
3 Judicial Assistant, Sheila Mansfield at Sheila.Mansfield@washoecourts.us, or the Court
4 Clerk, Mikki White at Mikki.White@washoecourts.us. All written communications must
5 be copied to all opposing counsel and unrepresented litigants.

6 C. **Page Limits.** All pleadings including accompanying legal memoranda
7 submitted in support of any motion may not exceed 20 pages in length; opposition
8 pleadings may not exceed 20 pages in length; and reply pleadings may not exceed ten
9 pages in length. These limitations are exclusive of exhibits. A party may file a pleading
10 that exceeds these limits by five pages, so long as it is filed with a certification of counsel
11 that good cause existed to exceed the standard page limits and the reasons therefore.
12 Briefs in excess of five pages over these limits may only be filed with prior leave of the
13 Court, upon a showing of good cause.

14 D. **Request for Accommodation.** Counsel must notify the Court no later than
15 30 days before trial of any reasonable accommodation needed because of a disability, or
16 immediately upon learning of the need if not known in advance.

17 E. **Etiquette and Decorum.** Counsel must at all times adhere to professional
18 standards of courtroom etiquette and decorum, including but not limited to the following:

- 19 • Counsel may not use speaking objections
 - 20 • Counsel must stand when speaking
 - 21 • Counsel may not address each other during their respective arguments
 - 22 • Counsel must be punctual
 - 23 • Counsel must be prepared
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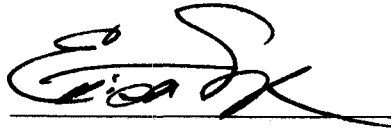
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VII. CASE SPECIFIC REQUIREMENTS

NOT AT THIS TIME.

IT IS SO ORDERED.

Dated: March 30, 2017

A handwritten signature in black ink, appearing to read 'E. A. Sattler', is written over a horizontal line.

ELLIOTT A. SATTLER
District Court Judge

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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this ____ day of March, 2017, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 31 day of March, 2017, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

JEREMY NORK, ESQ.
CLAYTON BRUST, ESQ.
FRANK LAFORGE, ESQ.
ALEXANDER WALKER, ESQ.
JOHN MURTHA, ESQ.


Sheila Mansfield
Judicial Assistant

1 **Code: 2270**

2 JOHN F. MURTHA, ESQ.

3 **Nevada Bar No. 835**

4 W. CHRIS WICKER, ESQ.

5 **Nevada Bar No. 1037**

6 WOODBURN AND WEDGE

7 6100 Neil Road, Ste. 500

8 Reno, Nevada 89505

9 Telephone : (775) 688-3000

10 jmurtha@woodburnandwedge.com

11 cwicker@woodburnandwedge.com

12 Attorneys for Defendant/Cross-Claimant

13 Athanasios Skarpelos

14 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

15 IN AND FOR THE COUNTY OF WASHOE

16 ***

17 NEVADA AGENCY AND TRANSFER

18 COMPANY, a Nevada corporation,

19 Plaintiff,

20 vs.

Case No. CV15-02259

Dept. No. 10

21 WEISER ASSET MANAGEMENT, LTD.,
22 a Bahamas company; WEISER (BAHAMAS)
23 LTD., a Bahamas company, ATHANASIOS
24 SKARPELOS, an individual; and
25 DOES 1-10,

MOTION TO COMPEL

26 Defendants.

27 _____/
28 ATHANASIOS SKARPELOS, an individual

29 Cross-Claimant,

30 vs.

31 WEISER ASSET MANAGEMENT, LTD., a
32 Bahamas company, and WEISER (BAHAMAS)
33 LTD., a Bahamas company,

34 Cross-Defendants.
35 _____/

1
2 Defendant Anthanasios Skarpelos (“Skarpelos”), by and through his counsel of record
3 Woodburn and Wedge, moves this Court pursuant to NRCP 37(a) for an order compelling
4 Defendants Weiser Asset Management, Ltd. and Weiser (Bahamas), Ltd. (collectively
5 “Weiser”) to provide proper responses to discovery served pursuant to NRCP 34. This motion
6 is supported by the following memorandum of points and authorities and the pleadings and
7 papers on file in this matter.

8
9 **POINTS AND AUTHORITIES**

10 This is an interpleader matter. Skarpelos and Weiser have competing claims to certain
11 stock in an entity known as Anavex Life Sciences. The interpleading Plaintiff, Nevada Agency
12 and Transfer Company, is the stock transfer agent for Anavex Life Sciences. When it became
13 aware of Skarpelos and Weiser’s competing claims to the stock it filed this action.

14 It was clear from Weiser’s prior document productions in this case that their claim to
15 the stock was, at least in part, based upon an alleged brokerage account established by Skarpelos
16 with Weiser. To flesh out the documents necessary to understand Weiser’s claim to the stock,
17 Skarpelos served a Second Set of Requests for Production of Documents (“Document
18 Requests”) upon Weiser. Because the Document Requests were a follow-up to the first round
19 of discovery in this case and they were focused upon the alleged brokerage account, the requests
20 were quite specific in identifying the documents being requested. Weiser responded to the
21 Document Requests on or about March 24, 2017 (the “Weiser Responses”). Copies of the
22 Weiser Responses are attached hereto as **Exhibit 1**.¹

23
24 The Document Requests asked for: (a) any documents which evidence Skarpelos’
25 agreement to be bound to certain “terms and conditions” upon which Weiser claim they had the
26

27
28 ¹ Actually, both Weiser Defendants served responses to the Document Requests, but only one of the
responses is being attached hereto because both responses were substantively the same.

1 right to sell Mr. Skarpelos' stock without notice (Requests No. 2 and 3); (b) all documents
2 signed by Skarpelos to open the account with Weiser (Request No. 4); (c) any account
3 statements for the period between the inception of the account and the present (Request No. 5);
4 (d) any documents evidencing distributions or payments from Skarpelos' account with Weiser
5 to Skarpelos or anyone else (Request No. 6); and (e) any documents reflecting the sale of
6 Skarpelos' stock and notice thereof given to Skarpelos.
7

8 Weiser's Responses generally said: (a) we don't have possession, custody or control of
9 the documents; (b) Skarpelos should already have them; (c) look at the documents we have
10 already produced (which did not include the specific documents requested by the Document
11 Requests) and (d) discovery is continuing and Weiser reserves the right to supplement. The
12 ONLY new document produced by Weiser was a set of the "terms and conditions" upon which
13 they claim they could sell Skarpelos' Anavex stock, but that document was not signed by
14 Skarpelos. Essentially, Weiser failed to respond to the Document Requests.
15

16 On March 25, 2017, the day after the Weiser Responses were served, the undersigned
17 sent a letter to Weiser's counsel, Jeremy Nork, Esq., in which the deficiencies in the Weiser
18 Responses were noted and in which a "meet and confer" meeting was requested. A copy of that
19 letter is attached hereto as **Exhibit 2**. On March 29, 2017, Mr. Nork sent the undersigned an
20 email in which he said he didn't believe there was a discovery issue, but he would be willing to
21 meet and confer on the matter. A copy of Mr. Nork's email is attached as **Exhibit 3**.
22

23 The undersigned got busy on other matters and was unable to arrange a meeting with
24 Mr. Nork in late March or early April. However, on April 29, 2017, May 5, 2017, and May 30,
25 2017, the undersigned sent Mr. Nork three follow-up emails asking when Weiser might produce
26 the missing documents. Copies of those three emails are attached hereto as **Exhibit 4**. No
27 responses were received to the emails.
28

On July 18, 2017, the undersigned followed-up on the matter by sending Mr. Nork another “meet and confer” letter advising Mr. Nork of the continuing concerns regarding the deficient responses and the lack of response to the follow-up emails. A copy of that letter is attached hereto as **Exhibit 5**. The letter concluded by saying “If I do not hear from you by close of business Monday, July 24, 2017, I will have no option but to seek an order compelling Weiser to respond to the discovery.” As of 4:00 p.m. on Friday, July 28, 2017, the undersigned had not received a response to the July 24th meet and confer letter, nor have any supplemental responses to the Weiser Responses been received.

NRCP 37(a)(2) provides that a party may move to compel disclosure where another party fails to answer discovery pursuant to NRCP 33 and 34. NRCP 37(a)(4) also provides for an award of attorneys' fees if the motion is granted. Here Weiser has failed to properly respond to the Document Requests. The documents requested by the Document Requests are clearly documents that should be within Weiser's custody and control and, if they aren't, should have been obtained and produced by now if Weiser made any diligent efforts to locate them. It is simply not good enough to say "look at what we have already produced" when what has already been produced does not support Weiser's claim to the disputed stock or respond at all to the Document Request.

CERTIFICATION OF COUNSEL

Pursuant to NRCP 37(a)(2) and WDCR 12(6), the undersigned counsel certifies that he has in good faith attempted to confer with Weiser's counsel in an effort to secure the required disclosures without court action. The efforts have been unsuccessful.

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CONCLUSION

Weiser's responses to discovery are entirely inadequate. They have refused to produce, and continue to refuse to produce, documents which should be in their possession and which Skarpelos needs in order to prepare his defenses to Weiser's claims. With the exception of one marginally relevant document (an unsigned copy of the alleged "terms and conditions" that would have allowed Weiser to sell Skarpelos' stock) no substantive responses were provided. Skarpelos' motion to compel should be granted and Weiser should be given a short, absolute deadline by which they must produce all documents responsive to the Document Requests or face the possibility of having their answer to the complaint stricken for failure to respond to discovery.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: July 28, 2017.

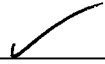
WOODBURN AND WEDGE

By: /s/ John F. Murtha, Esq.
John F. Murtha, Esq.
Nevada Bar 835
W. Chris Wicker, Esq.
Nevada Bar No. 1037
Attorneys for Defendant
Athanasios Skarpelos

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CERTIFICATE OF SERVICE

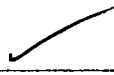
I certify that I am an employee of the law firm of Woodburn and Wedge, and that on the 28 day of July, 2017, I caused the foregoing document to be delivered to the parties entitled to notice in this action by:



placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada

personal delivery

email



electronic filing

Federal Express or other overnight delivery

as follows:

Alexander H. Walker III, Esq.
57 West 200 South, Ste. 400
Salt Lake City, Utah 84101
awalkerlaw@aol.com

Jeremy J. Nork, Esq.
Frank Z. LaForge, Esq.
Holland & Hart LLP
5441 Kietzke Lane, 2nd Flr.
Reno, Nevada 89511
jnork@hollandhart.com
fzlaforge@hollandhart.com



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INDEX TO EXHIBITS

Ex. No.	Description	Pages
1	Cross Defendant Weiser Asset Management, Ltd.'s Responses to Cross-Claimant's Second Set of Requests for Production of Documents	8
2	Letter dated March 25, 2017 (Murtha to Nork)	3
3	Email dated March 29, 2017 (Nork to Murtha)	2
4	Three emails dated April 29, 2017, May 5, 2017, and May 30, 2017 (Murtha to Nork)	4
5	Letter dated July 18, 2017 (Murtha to Nork)	4

EXHIBIT 1

EXHIBIT 1

HOLLAND & HART LLP
5441 KIETZKE LANE, SECOND FLOOR
RENO, NEVADA 89511
(775) 327-3000

DISC

Jeremy J. Nork (SBN 4017)
Frank Z. LaForge (SBN 12246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel: (775) 327-3000; Fax: (775) 786-6179
jnork@hollandhart.com
fzlaforge@hollandhart.com

Attorneys for Defendant Weiser Asset Management, Ltd.

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada Corporation,

Plaintiff,

v.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, ATHANASIOS
SKARPELOS, an individual, and DOES 1
through 10,

Defendants.

Case No. CV15 02259

Dept. No. 10

**CROSS DEFENDANT WEISER ASSET
MANAGEMENT, LTD.'S RESPONSES
TO CROSS-CLAIMANT'S SECOND
SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Defendant/Cross-claimant Weiser Asset Management Ltd. ("Weiser"), by and through
counsel Holland & Hart LLP, hereby responds to defendant and cross-claimant Athanasios
Skarpelos's Second Set of Requests for Production of Documents as follows:

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

Request for Production No. 1:

Produce a full and complete set of the Terms and Conditions document, the document
from which WEISER000326-327 were taken.

Response to Request for Production No. 1:

Objection. Not all of the documents are in Weiser's possession, custody, or control.
Specifically, Weiser believes that cross-claimant Athansios Skarpelos or his agents (collectively

1 "Skarpelos") have copies of such documents. Further, discovery is continuing and Weiser
2 reserves the right to supplement this response with new or additional information if and when it
3 becomes available.

4 Without waiving these objections, Weiser responds as follows: See documents
5 identified by Bates Nos. WEISER000437-000443 produced concurrently herewith.

6 **Request for Production No. 2:**

7 Produce any copy of the Terms and Conditions that are signed or acknowledged by
8 Skarpelos.

9 **Response to Request for Production No. 2:**

10 Objection. Not all of the documents are in Weiser's possession, custody, or control.
11 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents.
12 Further, discovery is continuing and Weiser reserves the right to supplement this response with
13 new or additional information if and when it becomes available.

14 Without waiving these objections, Weiser responds as follows: Weiser has no
15 documents responsive to this request.

16 **Request for Production No. 3:**

17 If you do not have a copy of the Terms and Conditions signed or acknowledged by
18 Skarpelos, produce any other document you may have that is signed or acknowledged by
19 Skarpelos in which he agrees to be bound by the Terms and Conditions.

20 **Response to Request for Production No. 3:**

21 Objection. Not all of the documents are in Weiser's possession, custody, or control.
22 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents.
23 Further, discovery is continuing and Weiser reserves the right to supplement this response with
24 new or additional information if and when it becomes available.

25 Without waiving these objections, Weiser responds as follows: See documents
26 previously produced and identified by Bates Nos: WEISER000136-000141; 000156-000158;
27 000207-000209; 000231; 000282-000291; 000293; 000314; 000352-000367.

1 **Request for Production No. 4:**

2 Produce full and complete copies of: (a) any application or other document signed by
3 Skarpelos requesting Weiser to open the 2002 Account; (b) any other document signed by
4 Skarpelos related to the opening or creation of the 2002 Account; and (c) any other document
5 signed by any person purporting to have authority to sign on behalf of Skarpelos related to
6 opening or creation of the 2002 Account.

7 **Response to Request for Production No. 4:**

8 Objection. This request is overbroad, burdensome, and violative of the requirement that
9 requests be stated with particularity in that it seeks documents that "relate" to a given subject
10 matter. The request is thus irrelevant to the extent that it seeks to discover evidence not
11 reasonably calculated to lead to the discovery of admissible evidence. Also, not all of the
12 documents are in Weiser's possession, custody, or control. Specifically, Weiser believes that
13 cross-claimant Skarpelos has copies of such documents. Further, discovery is continuing and
14 Weiser reserves the right to supplement this response with new or additional information if and
15 when it becomes available.

16 Without waiving these objections, Weiser responds as follows: See documents
17 previously produced and identified by Bates Nos. WEISER000136-000141; 000156-000158;
18 000207-000209; 000231; 000282-000291; 000293; 000314; 000352-000367.

19 **Request for Production No. 5:**

20 Produce copies of any account statements, summaries of account statements or any
21 similar statements for the 2002 Account for the periods: (a) between the inception of the
22 account and February 1, 2013; and (b) between January 1, 2013, to the present.

23 **Response to Request for Production No. 5:**

24 Objection. Not all of the documents are in Weiser's possession, custody, or control.
25 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents. Also,
26 the request is irrelevant to the extent that it seeks to discover evidence not reasonably calculated
27 to lead to the discovery of admissible evidence. Further, discovery is continuing and Weiser
28

1 reserves the right to supplement this response with new or additional information if and when it
2 becomes available.

3 Without waiving these objections, Weiser responds as follows: Weiser has no
4 documents responsive to this request.

5 **Request for Production No. 6:**

6 Produce copies of any documents that reflect or evidence that account statements,
7 summaries of account statements or other similar documents relating to the 2992 Account were
8 ever mailed, emailed or otherwise delivered to Skarpelos or any authorized agent of Skarpelos.

9 **Response to Request for Production No. 6:**

10 Objection. Not all of the documents are in Weiser's possession, custody, or control.
11 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents. Also,
12 Skarpelos has not yet identified all of his authorized agents. Further, discovery is continuing and
13 Weiser reserves the right to supplement this response with new or additional information if and
14 when it becomes available.

15 Without waiving these objections, Weiser responds as follows: See documents
16 previously produced and identified by Bates Nos. WEISER000378-000380.

17 **Request for Production No. 7:**

18 WEISER000379 reflects a series of "transfers" from the 2992 Account. See, e.g. the
19 entries for May 9, 2013, May 22, 2013, July 2, 2013 and June 6, 2013. For these transfers and
20 ANY OTHER transfers or withdrawals from the 2992 Account from its inception to the present,
21 produce any documents available to you evidencing: (a) Skarpelos' authorization to transfer or
22 withdraw funds from the 2992 Account; (b) any authorization by anyone purporting to act on
23 behalf of Skarpelos to transfer or withdraw funds from the 2992 Account; (c) the actual transfer
24 or withdrawal of funds from the 2992 Account; and (d) the actual receipt of any funds
25 transferred or withdrawn from the 2992 Account by the person, persons, entity or entities to
26 whom the transfers or withdrawals were directed to be made.

27 **Response to Request for Production No. 7:**

1 Objection. Not all of the documents are in Weiser's possession, custody, or control.
2 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents.
3 Further, discovery is continuing and Weiser reserves the right to supplement this response with
4 new or additional information if and when it becomes available.

5 Without waiving these objections, Weiser responds as follows: See documents
6 previously produced and identified by Bates Nos. WEISER000312; 000320-000322; 000338;
7 000345-000346; 000368-000372; 000376-000380.

8 **Request for Production No. 8:**

9 WEISER000379 (part of the 1992 Account statement produced by Weiser) reflects a
10 sale of 3,316,666 shares of ANAVEX LIFE SCIENCE CORP. stock on April 2, 2013. In
11 connection with that sale of stock, produce: (a) any documentary evidence that Skarpelos
12 authorized the stock to be sold; (b) any documentary evidence that an authorized agent of
13 Skarpelos authorized the stock to be sold; (c) any notice, letter, memorandum or alert sent to
14 Skarpelos or an authorized agent of Skarpelos advising Skarpelos that the ANAVEX LIFE
15 SCIENCE CORP. stock was going to be sold; (c) any documents that reflect: (1) the sale of the
16 stock; (2) the consideration paid for the stock; (3) the receipt by Weiser of the sales
17 consideration for the stock; and (4) the payment of the stock sales proceeds to Skarpelos; and
18 (d) any documentary evidence that Skarpelos or an authorized agent of Skarpelos was advised
19 the ANAVEX LIFE SCIENCE CORP. stock had been sold.

20 **Response to Request for Production No. 8:**

21 Objection. Not all of the documents are in Weiser's possession, custody, or control.
22 Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents. Also,
23 Skarpelos has not yet identified all of his authorized agents. Further, this request is overbroad,
24 burdensome, and violative of the requirement that requests be stated with particularity in that it
25 seeks documents that "reflect" a given subject matter. The request is thus irrelevant to the extent
26 that it seeks to discover evidence not reasonably calculated to lead to the discovery of
27 admissible evidence. Last, discovery is continuing and Weiser reserves the right to supplement
28 this response with new or additional information if and when it becomes available.

HOLLAND & HART LLP
5441 KIETZKE LANE, SECOND FLOOR
RENO, NEVADA 89511
(775) 327-3000

1 Without waiving these objections, Weiser responds as follows: See documents
2 previously produced and identified by Bates Nos. WEISER000312-000313; 000328-000338;
3 000368-000372; 000376-000377.

4 The undersigned affirms that this document does not contain the social security number
5 of any person.

6 DATED this 24th day of March, 2017

7
8 By 

Jeremy J. Nork (SBN 4017)

Frank Z. LaForge (SBN 12246)

HOLLAND & HART LLP

5441 Kietzke Lane, Second Floor

Reno, NV 89511

Telephone: (775) 327-3000

Facsimile: (775) 786-6179

jnork@hollandhart.com

fzlaforge@hollandhart.com

13 Attorneys for Defendant Weiser Asset
14 Management, Ltd.

HOLLAND & HART LLP
5441 KIETZKE LANE, SECOND FLOOR
RENO, NEVADA 89511
(775) 327-3000

CERTIFICATE OF SERVICE

I, Brenda Toriyama, certify:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On March 24, 2017, I served the foregoing **CROSS DEFENDANT WEISER ASSET MANAGEMENT, LTD.'S RESPONSES TO CROSS-CLAIMANT'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope addressed as follows:

Clay P. Brust, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington Street
Reno, Nevada 89503
cbrust@rbsllaw.com

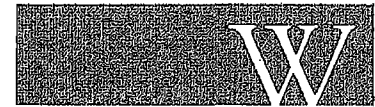
Alexander H. Walker III, Esq.
57 West 200 South, Suite 400
Salt Lake City, Utah 84101
awalkerlaw@aol.com

John F. Murtha, Esq.
W. Chris Wicker, Esq.
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89505
jmurtha@woodburnandwedge.com
cwicker@woodburnandwedge.com

Brenda Toriyama
Brenda Toriyama

EXHIBIT 2

EXHIBIT 2



March 25, 2017

Via Email and Regular Mail

Jeremy Nork, Esq.
Holland and Hart LLP
5441 Kietzke Lane, 2nd Floor
Reno, Nevada 89511

jnork@hollandhart.com

Re: Nevada Agency and Transfer Company v. Weiser Asset Management, et. al.; Deficient Discovery Responses by Weiser Asset Management (Bahamas) and Weiser Asset Management; Meet and Confer

Dear Jeremy:

I am in receipt of your clients' responses to Mr. Skarpelos' Second Set of Requests for Production of Documents emailed to me yesterday afternoon. The responses are wholly deficient.

As I understand the theory of Weiser's case, Mr. Skarpelos set up an account with it, he deposited stock in Anavex Life Sciences into the account, he became overdrawn on the account and, as a result, Weiser sold half of the stock he had deposited to recover the overdrawn amount.

Mr. Skarpelos disputes he ever established an account that would have allowed an overdraft situation to occur, he has no records of having received the funds from Weiser that support the claim of an overdrawn account, he never signed anything that authorized Weiser to sell his stock (and certainly not without notice to him) and he never received any notice of a sale.

To flesh out the documents necessary to support Weiser's claims, Mr. Skarpelos' Second Request for Production of Documents asked for: (1) any documents which evidence Mr. Skarpelos' agreement to be bound by Weiser's "terms and conditions" upon which they claim they had the right to sell Mr. Skarpelos' stock without notice (Requests No. 2 and 3); (2) all documents signed by Mr. Skarpelos to open the account with Weiser (Request No. 4); (3) any account statements for the period between the inception of the account and the present (Request No. 5); (4) any documents evidencing distributions or payments from Skarpelos' account with Weiser to Skarpelos or anyone else (Request No.

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Of Counsel:
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JA0122

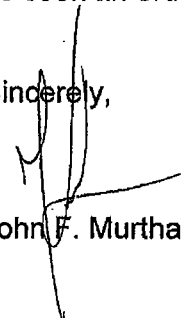
Mr. Jeremy Nork, Esq.
March 25, 2017
Page 2

6); and (5) any documents reflecting the sale of Skarpelos' stock and notice thereof given to Mr. Skarpelos.

Weiser's responses, other than relying upon all previously produced documents, included only a copy of its terms and conditions, but even the newly produced terms and conditions do not bear Mr. Skarpelos' signature evidencing his consent to the terms and conditions. The Second Set of Request for Production was necessary because the documents previously produced do not support Weiser's theory of the case. Therefore, to simply refer to previously produced documents is deficient. Also, Weiser repeatedly says "the documents are not in its possession or control." The documents requested should be part of Weiser's records relating to its dealings with Mr. Skarpelos. They have to be in Weiser's possession or control. Finally, Weiser indicates Mr. Skarpelos should have copies of the requested documents. He does not. That is the problem. It appears more and more clearly in this case that Weiser has fabricated its claims against Mr. Skarpelos and his stock and in such case Mr. Skarpelos would not have copies of Weiser's fabricated documents.

Please consider this letter Mr. Skarpelos' request under the Nevada Rules of Civil Procedure and Washoe District Court Rules to meet and confer to resolve the discovery dispute. Please call me at your earliest convenience so that we may discuss the problems created by Weiser's near complete failure to respond to Mr. Skarpelos' Second Request for Production of Documents. If I do not hear from you by close of business Wednesday, March 29, 2017, I will have no option but to seek an order compelling Weiser to respond to the discovery.

Sincerely,



John F. Murtha

JFM/dl

cc via email: Alex Walker

EXHIBIT 3

EXHIBIT 3


John F. Murtha

From: Jeremy Nork <JNork@hollandhart.com>
Sent: Wednesday, March 29, 2017 6:37 PM
To: John F. Murtha
Subject: RE: Nevada Agency and Trust v. Weiser

John:

I have received the letter you sent on Saturday; and while I disagree that it is a discovery issue, I am nevertheless available to meet and confer regarding your discovery requests at any time tomorrow or Friday. Please let me know when would be a good time to talk. Thank you.

Jeremy J. Nork
Direct (775) 327-3043
Mobile (775) 848-3384

HOLLAND&HART 

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.

From: John F. Murtha [mailto:JMurtha@woodburnandwedge.com]
Sent: Saturday, March 25, 2017 12:23 PM
To: Jeremy Nork
Cc: Alex Walker
Subject: Nevada Agency and Trust v. Weiser

Jeremy—please see the attached meet and confer letter necessitated by Weiser's wholly deficient responses to Skarpelos' most recent requests for production of documents.

EXHIBIT 4

EXHIBIT 4

John F. Murtha

From: John F. Murtha
Sent: Saturday, April 29, 2017 12:33 PM
To: 'Jeremy Nork'
Subject: NATCO v. Weiser

Jeremy—Are you in a position to supplement any of Weiser's production of documents yet. I am most interested in any information regarding Skarpelos' account with Weiser, his application, a copy of his consent to the terms and conditions and any evidence of the payments, withdrawals or distributions from the accounts and any notice to him regarding the sale of his Anavex stock. These items have been requested, but as you know, none of these specific items as they relate to Skarpelos have been produced.

Please advise.

John F. Murtha

From: John F. Murtha
Sent: Friday, May 05, 2017 9:58 AM
To: 'Jeremy Nork'
Subject: Nevada Agency and Trust v. Weiser, et. al.

About a week ago I sent an email to you asking if your client has yet been able to produce any of the missing documents I have requested on behalf of Mr. Skarpelos. The documents all relate to the account for Mr. Skarpelos and the alleged distributions from the account putting it into a negative balance. I have not heard anything from you. Please advise.

John F. Murtha

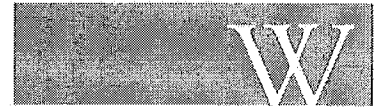
From: John F. Murtha
Sent: Tuesday, May 30, 2017 4:33 PM
To: 'Jeremy Nork'
Subject: NATCO v. Skarpelos and Weiser

Jeremy—another follow up to see if your clients have yet been able to locate any more documents that are responsive to Skarpelos prior requests for production of documents. The documents related to the establishment of Mr. Skarpelos' account and the alleged payments to Mr. Skarpelos are critical in this case both to Mr. Skarpelos and Weiser. Without them Weiser has no claims to the stock it purportedly sold to clear Mr. Skarpelos' overdraft.

Do you know when I might be receiving these critical documents?

EXHIBIT 5

EXHIBIT 5



July 18, 2017

Via Email and Regular Mail

Jeremy Nork, Esq.
Holland and Hart LLP
5441 Kietzke Lane, 2nd Floor
Reno, Nevada 89511

jnork@hollandhart.com

Re: Nevada Agency and Transfer Company v. Weiser Asset Management, et. al.; Deficient Discovery Responses by Weiser Asset Management (Bahamas) and Weiser Asset Management; Meet and Confer Request

Dear Jeremy:

Prior to the filing of the complaint in this matter Weiser Asset Management made demand upon Nevada Agency and Trust Company that it transfer certain stock in Anavex Life Sciences owned by Tom Skarpelos to Weiser on the basis it was authorized by Mr. Skarpelos to sell the stock on its behalf and that Weiser had, in fact, sold the stock pursuant to that authority. Weiser's claim was purportedly based upon a Stock Sale and Purchase Agreement dated in July 2013 but which was never consummated.

After the parties made their initial productions of documents pursuant to NRCP 16.1 it appeared Weiser's theory of its claim had changed. As I understand Weiser's current theory of its case, Mr. Skarpelos set up an account with it, he deposited stock in Anavex Life Sciences into the account, he became overdrawn on the account and, as a result, Weiser sold half of the stock he had deposited to recover the overdrawn amount.

To get a better understanding of Weiser's claim, I served a Second Set of Requests for Production of Documents upon your office in which I requested the production of a number of documents that would be necessary to prove Weiser's new theory of its case. On March 24, 2017, I received your clients' responses to the Second Set of Requests for Production of Documents. On March 25, 2017, I sent you a letter in which I stated "the responses are wholly deficient."

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Attorneys and Counselors at Law

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Of Counsel:
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JA0131

Mr. Jeremy Nork, Esq.
July 18, 2017
Page 2

To flesh out the documents necessary to support Weiser's claims, Mr. Skarpelos' Second Request for Production of Documents asked for: (1) any documents which evidence Mr. Skarpelos' agreement to be bound by Weiser's "terms and conditions" upon which they claim they had the right to sell Mr. Skarpelos' stock without notice (Requests No. 2 and 3); (2) all documents signed by Mr. Skarpelos to open the account with Weiser (Request No. 4); (3) any account statements for the period between the inception of the account and the present (Request No. 5); (4) any documents evidencing distributions or payments from Skarpelos' account with Weiser to Skarpelos or anyone else (Request No. 6); and (5) any documents reflecting the sale of Skarpelos' stock and notice thereof given to Mr. Skarpelos.

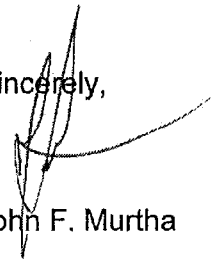
Weiser's responses, other than relying upon all previously produced documents, included only a copy of its terms and conditions, but even the newly produced terms and conditions do not bear Mr. Skarpelos' signature evidencing his consent to the terms and conditions. The Second Set of Request for Production was necessary because the documents previously produced do not support Weiser's theory of the case. Therefore, to simply refer to previously produced documents is deficient. Also, Weiser repeatedly said "the documents are not in its possession or control."

My March 25th letter said "Please consider this letter Mr. Skarpelos' request under the Nevada Rules of Civil Procedure and Washoe District Court Rules to meet and confer to resolve the discovery dispute." You responded indicating you did not think the matter was a discovery issue. You still offered to meet, but other matters interfered with my effort to follow-up the issue. In the meantime, however, I have sent you three emails (April 29th, May 5th and May 30th) asking when Weiser might produce the missing documents. I have no record of you responding to any of my emails and, more importantly, I still have not received the documents that are responsive to the Second Set of Requests for Production of Documents originally served on you in early February 2017.

Mr. Jeremy Nork, Esq.
July 18, 2017
Page 3

Please call me at your earliest convenience so that we may discuss the problems created by Weiser's near complete failure to respond to Mr. Skarpelos' Second Request for Production of Documents. If I do not hear from you by close of business Monday, July 24, 2017, I will have no option but to seek an order compelling Weiser to respond to the discovery.

Sincerely,



John F. Murtha

JFM/dl

cc via email: Alex Walker

1 **2645**

2 Jeremy J. Nork (SBN 4017)
3 Frank Z. LaForge (SBN 12246)
4 HOLLAND & HART LLP
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7 Tel: (775) 327-3000; Fax: (775) 786-6179
8 jnork@hollandhart.com
9 fzlaforge@hollandhart.com

6 Attorneys for Defendants
7 Weiser Asset Management, Ltd. and Weiser Bahamas Ltd.

8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR THE COUNTY OF WASHOE**

10 NEVADA AGENCY AND TRANSFER
11 COMPANY, a Nevada Corporation,

Case No. CV15 02259

Dept. No. 10

12 Plaintiff,

14 v.

**WEISER'S OPPOSITION TO MOTION
TO COMPEL**

15 WEISER ASSET MANAGEMENT, LTD., a
16 Bahamas company, ATHANASIOS
17 SKARPELOS, an individual, and DOES 1
through 10,

18 Defendants.

19
20 Defendant Anthanasios Skarpelos seeks to compel cross-defendants Weiser Asset
21 Management, Ltd. and Weiser (Bahamas) Ltd. (collectively "Weiser") to produce documents in
22 response to his second set of discovery requests. While that proposition is simple enough
23 generally, Skarpelos's opening brief fails to describe the precise dispute between the parties.

24 Although the document requests at issue are comprised of eight different requests for
25 production ("RFPs"), Skarpelos's motion does not identify the particular RFPs or RFP
26 subsections at issue, making it difficult for Weiser to understand, much less respond. The
27 confusion is compounded by the fact that Weiser responded to Skarpelos's requests with
28 documents and objections.

1 For example, RFP No. 1 asks Weiser to “[p]roduce a full and complete set of the Terms
2 and Conditions document, the document from which Weiser000326–327 were taken.” Motion
3 To Compel, Ex. 1. But Weiser did so, producing the Account Agreement Terms And Conditions
4 (WEISER000437–43). *Id.* Weiser is thus unsure what more it can do for this request.

5 Similarly, for other RFPs Weiser identified several documents that it previously
6 produced or stated that it “has no documents responsive to this request.” It is unclear what,
7 therefore, Skarpelos’s complaint is.

8 Further, Weiser asserted valid objections to many of the RFPs in its discovery responses.
9 *Id.* For instance, RFP Nos. 6 and 8 seek documents sent to Skarpelos’s “authorized agents.” *Id.*
10 But Weiser objected that it does not know the identity of such agents and therefore cannot
11 respond without such information. *Id.* Also, Weiser objected to RFP Nos. 4 and 8 on the basis
12 that they were overbroad. In particular, these requests seek documents “*related* to the opening
13 or creation of the 2992 Account” as well as those that “*reflect* . . . the sale of the stock.” *Id.* But
14 requests for documents that “relate to” or “reflect” a particular subject matter contravene NRCP
15 34(b)(1)(A)’s requirement that such requests “describe with reasonable particularity each item
16 or category of items to be inspected.” *See, e.g., Wesley Ayres, Notes From the Discovery*
17 *Matters* (Jan. 2001) (explaining that “[a] request for every document that ‘relates’ to a particular
18 subject requires the responding party to ascertain for itself which documents might ‘relate’—in
19 any conceivable way, no matter how tenuous the nexus—to the stated subject” and citing
20 several cases). Both Skarpelos’s motion and his meet-and-confer correspondence, however, are
21 silent about these objections, indicating concession. But, again, Weiser does not know whether
22 Skarpelos’s grossly generalized motion to compel applies to these requests.

23 Finally, it should be noted that Discovery closes on February 9, 2018, making
24 Skarpelos’s request somewhat premature as Weiser retains the right to supplement its discovery
25 responses until that time. Stipulation And Order To Vacate Early Pretrial Scheduling
26 Conference And To Set Scheduling Order; NRCP 26(e).

27 Accordingly, Weiser ask the Court to deny Skarpelos’s motion to compel.
28

1 The undersigned affirms that this document does not contain the social security number
2 of any person.

3 DATED this 14th day of August, 2017
4

5 By /s/ Frank Z. LaForge
6 Jeremy J. Nork (SBN 4017)
7 Frank Z. LaForge (SBN 12246)
8 HOLLAND & HART LLP
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14 fzlaforge@hollandhart.com

15 Attorneys for Defendant Weiser Bahamas Ltd.
16
17
18
19
20
21
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23
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25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I, Liz Ford, certify:

3 I am employed in the City of Reno, County of Washoe, State of Nevada by the law
4 offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor,
Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

5 On August 14, 2017, I electronically filed the foregoing **ANSWER AND CROSS**
6 **CLAIM**, with the Clerk of the Second Judicial District Court via the Court's e-Flex system.
Service will be accomplished by e-Flex on all registered participants.

7 Alexander H. Walker III, Esq.
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16
17
18 /s/ Liz Ford
19 Liz Ford

20 10115687_1
21
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(775) 327-3000

1 **Code: 3795**
2 **JOHN F. MURTHA, ESQ.**
3 **Nevada Bar No. 835**
4 **W. CHRIS WICKER, ESQ.**
5 **Nevada Bar No. 1037**
6 **WOODBURN AND WEDGE**
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9 Telephone : (775) 688-3000
10 jmurtha@woodburnandwedge.com
11 cwicker@woodburnandwedge.com

12 Attorneys for Defendant/Cross-Claimant
13 Athanasios Skarpelos

14 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

15 IN AND FOR THE COUNTY OF WASHOE

16 ***

17 NEVADA AGENCY AND TRANSFER
18 COMPANY, a Nevada corporation,

19 Plaintiff,

20 vs.

Case No. CV15-02259
Dept. No. 10

21 WEISER ASSET MANAGEMENT, LTD.,
22 a Bahamas company; WEISER (BAHAMAS)
23 LTD., a Bahamas company, ATHANASIOS
24 SKARPELOS, an individual; and
25 DOES 1-10,

**REPLY IN SUPPORT OF
MOTION TO COMPEL**

26 Defendants.

27 _____/
28 ATHANASIOS SKARPELOS, an individual

Cross-Claimant,

vs.

WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, and WEISER (BAHAMAS)
LTD., a Bahamas company,

Cross-Defendants.

1
2 Defendant Anthanasios Skarpelos ("Skarpelos"), by and through his counsel of record
3 Woodburn and Wedge, hereby submits his Reply in Support of Motion to Compel as follows:

4 **INTRODUCTION**

5 On July 28, 2017, Skarpelos filed his Motion to Compel (*Trans. No. 6221770*)
6 ("Motion") in which he sought an order compelling Defendants Weiser Asset Management,
7 Ltd. and Weiser (Bahamas), Ltd. (collectively "Weiser") to provide proper responses to long
8 outstanding discovery requests served upon Weiser pursuant to NRCP 34. The Motion clearly
9 states that: (1) this is an interpleader action involving Skarpelos and Weiser's competing claims
10 to certain stock in an entity known as Anavex Life Sciences; (2) that Weiser's claim to the stock
11 was, at least in part, based upon an alleged brokerage account established by Skarpelos with
12 Weiser; and (3) that Skarpelos Second Set of Requests for Production of Documents
13 ("Document Requests") which are the subject of the Motion focused upon the alleged brokerage
14 account.

15 Weiser's Opposition to Motion to Compel (*Trans. No. 6248340*) ("Opposition") does
16 not challenge Skarpelos's assertion that Weiser's claim to the stock was, at least in part, based
17 upon the alleged brokerage account or that the Document Requests focused on the alleged
18 brokerage account. Instead, Weiser submits three disingenuous arguments in opposition to the
19 Motion. First, Weiser says it does not understand the Motion. Second, Weiser says it objected
20 to some of the Document Requests because they included the words "related to" or "reflect."
21 Finally, Weiser argues the Motion is premature because discovery in this case does not close
22 until February 9, 2018, and it has the right to supplement its discovery responses until that time.

23 None of Weiser's arguments is persuasive.

24 **SKARPELOS' MOTION IS NOT DIFFICULT TO UNDERSTAND**

25 The Motion is clear and unambiguous: (1) Skarpelos sought *specific* documents from
26 Weiser regarding an alleged brokerage account, the terms of which purportedly authorized
27 Weiser to sell Skarpelos stock in Anavex Life Sciences; (2) in response to the very specific
28

1
2 requests Weiser produced only a copy of its general terms and conditions controlling its
3 brokerage accounts; (3) the copy of the terms and conditions produced by Weiser were not
4 signed by Skarpelos; and (4) Weiser failed to produce any other documents that support its
5 claim that it had the right to sell Skarpelos' Anavex Life Sciences stock.

6 Weiser claims the Motion is difficult to understand because it does not specifically state
7 which Document Requests were at issue. To a point, Weiser is correct. For example, the
8 Motion did not say "Weiser improperly failed to respond to Request X." The Motion did say,
9 however:

10 The ONLY new document produced by Weiser was a set of the "terms and
11 conditions" upon which they claim they could sell Skarpelos' Anavex stock,
12 but that document was not signed by Skarpelos. Essentially, Weiser failed to
respond to the Document Requests.

13 *See, Motion, p. 3, lns. 12-15 (emphasis in original).*

14 The Motion is clear: Weiser utterly failed to respond to all but one of the requests for
15 production.

16 Additionally, the "meet and confer" letters attached to the Motion as Exhibits 2 and 5
17 demonstrate, once again, that Skarpelos' concern was Weiser's complete lack of any truly
18 substantive responses to the Document Requests.

19 If Weiser finds the Motion difficult to understand, it is only because it chooses to remain
20 ignorant of the issues presented by the Motion in its continuous efforts to not produce
21 documents to which Skarpelos is entitled under the provisions of NRCP 34.

22
23 **THE FACT SOME OF THE REQUESTS MAY HAVE CONTAINED**
24 **THE WORDS "RELATED TO" OR "REFLECT" IS NOT FATAL TO**
25 **EITHER THE DOCUMENT REQUESTS OR THE MOTION**

26 As is noted in the Motion, because the Document Requests were a follow-up to the first
27 round of discovery in this case and they were focused upon the alleged brokerage account, the
28 requests were quite specific in identifying the documents being requested. The words "related

1
2 to” and “reflect” were used sparingly in the Document Requests. *See, e.g., Requests No. 4, 6*
3 *and 8.* In each instance, however, the words were used in conjunction with very specific
4 requests. For example, Request No. 4 requested documents *signed by Skarpelos* in establishing
5 the alleged brokerage account or, as stated in the Request, “related to the opening or creation
6 of” the alleged brokerage account. The Request’s use of the words “related to” is limited by
7 the fact the request: (1) identified the account number; (2) asked for documents *signed by*
8 *Skarpelos*; and (3) focused on the *opening* of the account. The fact Request No. 4 included the
9 general “related to” does not eliminate the specificity of the Request. The same can be said for
10 Requests 6 and 8: in each instance a general term may have been inserted in the request, but
11 the requests themselves identified specific documents that were connected to the alleged
12 brokerage account.

13 The Document Requests, fairly read, and not with the intention of evading discovery,
14 are clear, concise and specific. Weiser cannot be heard to complain about the use of general
15 words in detailed and specific discovery requests when it failed to respond almost entirely to
16 the Document Requests.

17
18 **SKARPELOS IS ENTITLED TO HIS**
19 **DISCOVERY NOW, NOT IN 2018**

20 Weiser argues the Motion is premature because it has the right to supplement its
21 discovery responses until February 9, 2018. The argument misses the point. True, Weiser is
22 obligated to supplement its discovery until the end of discovery (actually, until trial as well),
23 but that does not mean it does not have to respond to valid discovery requests in the meantime.
24 February 9, 2018, is the END of discovery—Skarpelos would have no right to depose Weiser
25 witnesses on the documents if they were not produced until the end of discovery. The argument
26 is nonsensical.

1 Skarpelos served the Discovery Requests timely in accordance with the Nevada Rules
2 of Civil Procedure and he is entitled to receive all responsive documents now, not sometime
3 into the future and certainly not just at the close of discovery. Skarpelos cannot conduct any
4 follow up discovery (e.g. depositions) until he has the documents in hand and can analyze their
5 impact, if any, on the issues in the case. As is noted in the Stipulation and Order to Vacate
6 Early Pretrial Scheduling Conference and to Set Scheduling Order entered herein on April 21,
7 2017, (*transaction No. 6064021*) “[b]oth Skarpelos and Weiser are located outside the United
8 States, which has greatly impeded the efficiency of the discovery process and will in all
9 likelihood make scheduling depositions complex.” *Id.*, ¶3. Scheduling discovery is going to
10 be difficult enough even if Weiser were not taking extraordinary steps to avoid producing
11 documents to which Weiser is entitled.
12

13
14 Bottom line, Skarpelos is entitled to prosecute his claims now and he is not obligated to
15 wait until the end of discovery to do so. Skarpelos wants to depose Weiser representatives, but
16 it makes no sense to do so without all relevant documents being produced. Skarpelos is entitled
17 to file dispositive motions to get this matter behind him and to clear Weiser’s cloud on the title
18 to his Anavex Life Sciences stock, but, once again, he cannot proceed without the documents
19 he has properly requested in accordance with the Nevada Rules of Civil Procedure.
20

21 **CONCLUSION**
22 **AND RELIEF REQUESTED**

23 For the reasons stated in the Motion and in this Reply, Skarpelos respectfully requests
24 that this Court grant the Motion and enter an order compelling Weiser to produce all documents
25 requested in the Discovery Requests by a date certain or suffer having its answer and cross
26 claim struck for failure to respond to discovery. Given that Weiser’s responses to the Discovery
27
28

1 Requests were due in March of this year, it is recommended that the deadline for production be
2 no more than fifteen (15) days after entry of the Court's order granting this Motion.
3
4
5
6

7 **AFFIRMATION**
8 **Pursuant to NRS 239B.030**

9 The undersigned does hereby affirm that the preceding document does not contain the
10 social security number of any person.

11 DATED: August 19, 2017.

12 WOODBURN AND WEDGE

13 By: /s/ John F. Murtha, Esq.
14 John F. Murtha, Esq.
15 Nevada Bar 835
16 W. Chris Wicker, Esq.
17 Nevada Bar No. 1037
18 Attorneys for Defendant
19 Athanasios Skarpelos
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1
2
3 **CERTIFICATE OF SERVICE**

4 I certify that I am an employee of the law firm of Woodburn and Wedge, and that on
5 the 21 day of August, 2017, I caused the foregoing document to be delivered to the parties
6 entitled to notice in this action by:

7 _____ placing a true copy thereof in a sealed, stamped envelope with the United
8 States Postal Service at Reno, Nevada

9 _____ personal delivery

10 _____ email

11 ✓ electronic filing

12 _____ Federal Express or other overnight delivery

13 as follows:

14 Alexander H. Walker III, Esq.
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18 Jeremy J. Nork, Esq.
19 Frank Z. LaForge, Esq.
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28 *Denise Sorcini*

1 CODE NO. 1945

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 NEVADA AGENCY AND TRANSFER COMPANY,
10 a Nevada corporation,

11 Plaintiff,

Case No. CV15-02259

12 vs.

Dept. No. 10

13 WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, et al.,

14 Defendants.
15 _____/

16 **RECOMMENDATION FOR ORDER**

17 The complaint in this interpleader action was filed on November 18, 2015, by Plaintiff Nevada
18 Agency & Transfer Co., and an amended complaint was filed on April 29, 2016. Plaintiff is the stock
19 transfer agent for a Nevada corporation named Anavex Life Science Corp. ("Anavex"). Plaintiff
20 received a stock certificate representing shares of Anavex common stock along with a request to
21 effect a transfer of ownership of such shares on the books and records of Anavex. Defendants
22 Weiser Asset Management, Ltd., and Weiser (Bahamas) Ltd. (collectively, "Weiser"), and
23 Athanasios Skarpelos ("Skarpelos"), claim an ownership interest in the certificate received by
24 Plaintiff, and each refutes the claimed ownership interest of the other. Defendants have answered
25 Plaintiff's complaint and asserted cross-claims against each other.

26 This case was exempted from the Court Annexed Arbitration Program on April 8, 2016.

1 Counsel for all parties participated in an early case conference on August 1, 2016, and the parties
2 filed a joint case conference report on August 23, 2016. The parties are scheduled to commence
3 trial in this action on June 4, 2018.

4 To investigate Weiser's claim to the Anavex stock, Skarpelos served it with a request for
5 production of documents, and Weiser served its response on March 24, 2017. Skarpelos perceived
6 the response to be deficient. On March 25, 2017, counsel for Skarpelos emailed a letter to Weiser's
7 counsel stating his concerns about Weiser's response. Weiser's counsel sent a response email on
8 March 29, 2017, essentially disputing that the response was deficient, but agreeing to discuss the
9 matter further. Over the ensuing months, Skarpelos' counsel sent additional emails and an emailed
10 letter reiterating his client's concerns and attempting to ascertain whether additional responsive
11 documents would be forthcoming. Counsel did not receive responses to those communications.

12 On July 28, 2017, Skarpelos filed a *Motion to Compel*. The motion seeks an order
13 compelling Weiser to produce any documents responsive to Category Nos. 2, 3, 4, 5, 6, and 8 of his
14 request for production.¹ *Weiser's Opposition to Motion to Compel* was filed on August 14, 2017.
15 Skarpelos filed his *Reply in Support of Motion to Compel* on August 21, 2017, and the motion was
16 submitted for decision on that same date.

17 A. Category No. 2

18 According to Skarpelos, Weiser's claim to the disputed stock was based, at least in part,
19 upon an alleged brokerage account established by Skarpelos with Weiser. Although Weiser
20 typically uses an "Account Agreement Terms and Conditions" when it opens a new account,
21 Skarpelos disputes that he ever signed such a document. In response to a separate request,
22 Weiser produced an unsigned copy of its terms and conditions. But in Category No. 2 of his
23 request, Skarpelos asks Weiser to "[p]roduce any copy of the Terms and Conditions that are signed
24 or acknowledged by Skarpelos." Weiser's response is as follows:

25 ¹ To the extent that Skarpelos might have intended that this motion also pertain to Category Nos. 1 and 7, the
26 motion must be denied. Neither the communications identifying the perceived deficiencies in Weiser's response, nor the
motion to compel, specifically identifies those two categories as disputed matters.

1 Objection. Not all of the documents are in Weiser's possession, custody, or
2 control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of
3 such documents. Further, discovery is continuing and Weiser reserves the right to
4 supplement this response with new or additional information if and when it becomes
5 available.

6 Without waiving these objections, Weiser responds as follows: Weiser has no
7 documents responsive to this request.

8 Skarpelos argues that Weiser failed to properly respond to this category.

9 Under NRCP 34(a)(1), the party served with a request for production of documents is only
10 required to produce responsive documents within that party's possession, custody, or control. But
11 the fact that a party does not have possession, custody, or control over a requested document does
12 not make the request objectionable. Moreover, a party who lacks possession, custody, or control of
13 a requested document may properly advise the requesting party where that document might be
14 found. Likewise, the assertions that "discovery is continuing" and that the responding party
15 "reserves the right to supplement this response with new or additional information if and when it
16 becomes available" are not proper objections. The former response is merely a statement of fact,
17 and the latter is an obligation imposed by NRCP 26(e)(2). Therefore, Weiser has not asserted any
18 meritorious objections to Category No. 2.

19 Nevertheless, Weiser has stated, without equivocation, that it "has no documents responsive
20 to this request." Therefore, Skarpelos has received a proper response to Category No. 2—Weiser
21 has no such documents. At this time, Skarpelos has not demonstrated that Weiser's response is
22 false, incomplete, or otherwise inaccurate. Therefore, no further response to Category No. 2 is
23 required.²

24 B. Category No. 3

25 In this category, Skarpelos asks Defendant to do the following: "If you do not have a copy of
26 the Terms and Conditions signed or acknowledged by Skarpelos, produce any other document you
27 may have that is signed or acknowledged by Skarpelos in which he agrees to be bound by the
28 Terms and Conditions. Weiser's response is as follows:

² Of course, if Weiser has possession, custody, or control of the documents sought in Category No. 2—or any other category of this request to which an objection has not been sustained—then it must produce them immediately.

1 Objection. Not all of the documents are in Weiser's possession, custody, or
2 control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of
3 such documents. Further, discovery is continuing and Weiser reserves the right to
4 supplement this response with new or additional information if and when it becomes
5 available.

6 Without waiving these objections, Weiser responds as follows: See
7 documents previously produced and identified by Bates Nos. WEISER000136-
8 000141; 000156-000158; 000207-000209; 000231; 000282-000291; 000293;
9 000314; 000352-000367.

10 As explained above, the statements set forth in the first paragraph of this response do not constitute
11 objections. In the second paragraph, Weiser identifies eight documents that it maintains are
12 responsive to this category. Skarpelos need not agree with Weiser's assertion that these are
13 documents "in which he agrees to be bound by the Terms and Conditions," and Skarpelos is free
14 depose one or more individuals in an effort to obtain an explanation as to how he agreed to be
15 bound by the terms and conditions through execution of these documents. But Skarpelos has not
16 shown that Weiser currently has possession, custody, or control of any additional responsive
17 documents. Therefore, no further response to Category No. 3 is required.

18 C. Category No. 4

19 In Category No. 4, Weiser is asked to do the following:

20 Produce full and complete copies of: (a) any application or other document signed by
21 Skarpelos requesting Weiser to open the 2992 Account; (b) any other document
22 signed by Skarpelos related to the opening or creation of the 2992 Account; and (c)
23 any other document signed by any person purporting to have authority to sign on
24 behalf of Skarpelos related to opening or creation of the 2992 Account.

25 Weiser's response is as follows:

26 Objection. This request is overbroad, burdensome, and violative of the
27 requirement that requests be stated with particularity in that it seeks documents that
28 "relate" to a given subject matter. The request is thus irrelevant to the extent that it
29 seeks to discover evidence not reasonably calculated to lead to the discovery of
30 admissible evidence. Also, not all of the documents are in Weiser's possession,
31 custody, or control. Specifically, Weiser believes that cross-claimant Skarpelos has
32 copies of such documents. Further, discovery is continuing and Weiser reserves the
33 right to supplement this response with new or additional information if and when it
34 becomes available.

35 Without waiving these objections, Weiser responds as follows: See
36 documents previously produced and identified by Bates Nos. WEISER000136-
37 000141; 000156-000158; 000207-00209; 000231; 000282-000291; 000293; 000314;
38 000352-000367.

1 Some of the objections asserted in this response have been addressed previously. They are not
2 valid objections, and do not provide a proper basis for withholding any responsive documents within
3 Weiser's possession, custody, or control.

4 Weiser's objection based upon the form of the request is different. NRCP 34(b)(1)(A)
5 requires that all requests for production be stated with reasonable particularity. The use of omnibus
6 phrases like "related to" (or "evidencing," "concerning," "regarding," or similar terms) generally
7 contravenes that requirement. See, e.g., Perez v. El Tequila LLC, No. 12-CV-588-JED-PJC, 2014
8 WL 5341766, at *1 (N.D. Okla. Oct. 20, 2014) ("discovery requests seeking 'all documents referring
9 to, concerning, relating to' . . . are generally too vague and overbroad on their face and do not
10 describe with 'reasonable particularity' what is being sought") (emphasis added).³ Moreover, as
11 NRCP 34(b)(1)(A) makes clear, the party seeking documents generally bears the burden of
12 determining which kinds of documents "relate to" a stated subject (whether using that phrase or
13 similar language), and requesting those documents with reasonable particularity. A request for
14 documents that "relate to" a stated subject effectively, and improperly, shifts that burden to the

15 ³ Many courts have refused to enforce a request that uses this kind of formulation; in fact, courts have been
16 expressing concern over requests that use this kind of phrasing for almost seventy years. See, e.g., Hartford Fire Ins. Co.
17 v. P & H Cattle Co., No. 05-2001-DJW, 2009 WL 2951120, at *11 (D. Kan. Sept. 11, 2009) (request for "all documents
18 maintained by the Plaintiff concerning any of the Defendants" not made with reasonable particularity) (emphasis added);
19 United States ex rel. Smith v. Boeing Co., No. 05-1073-WEB, 2009 WL 2777278, at *8 n.16 (D. Kan. Aug. 27, 2009)
20 ("[s]imply asking a party to provide testimony concerning a 390-page contract or a 1990-page manual does not satisfy the
21 requirement of reasonable particularity" for purposes of NRCP 30(b)(6)) (emphasis added); Lopez v. Chertoff, No. CV 07-
22 1566-LEW, 2009 WL 1575214, at *2 (E.D. Cal. June 2, 2009) (request for all documents "referring to [or] relating to"
23 plaintiff from defendant sheriff was overly broad and lacked reasonable particularity); Aikens v. Deluxe Fin. Servs., Inc.,
24 217 F.R.D. 533, 538 (D. Kan. 2003) (request for all documents "regarding" or "relating to" the lawsuit and eleven plaintiffs
25 and eight EEOC charges was overly broad and unduly burdensome on its face); Robbins v. Camden City Bd. of Educ., 105
26 F.R.D. 49, 60 (D.N.J. 1985) (request for documents that "refer or relate" to plaintiff's employment "is too broad and
ambiguous to meet the 'reasonable particularity' standard of Rule 34"); Westhemeco Ltd. v. New Hampshire Ins. Co., 82
F.R.D. 702, 709 (S.D.N.Y. 1979) (motion to compel denied with regard to interrogatory that requested identification of
"each document in the claim file and the underwriting file maintained by defendant with respect to the subject policy and
claim which is the subject of this action") (emphasis added), modified on other grounds sub nom. Commercial Union Ins.
Co. v. Albert Pipe & Supply, 484 F. Supp. 1153 (S.D.N.Y. 1980); Camco, Inc. v. Baker Oil Tools, Inc., 45 F.R.D. 384, 387
(S.D. Tex. 1968) (request for "[a]ll files relating to the making and first reducing to practice of the alleged inventions, the
decisions to file patent applications on the alleged inventions, and the prosecution of applications relating to any of the
patents described in paragraph (1)" was not made with reasonable particularity) (emphasis added); Pickett v. L.R. Ryan,
Inc., 237 F. Supp. 198, 200 (E.D.S.C. 1965) (request for "the investigative file of the Travelers Insurance Company
pertaining to the explosion alleged in the Libel herein" was not made with reasonable particularity) (emphasis added);
Dynatron Corp. v. U.S. Rubber Co., 27 F.R.D. 480, 481 (D. Conn. 1961) (request for all documents "relating to" specific
polyester resins was not made with reasonable particularity); Kurt M. Jachmann Co. v. Marine Office of Am., 17 F.R.D. 42,
43-44 (S.D.N.Y. 1955) (request for all documents "relating to" certain enumerated matters was not made with reasonable
particularity); Hare v. S. Pac. Co., 9 F.R.D. 307, 307-08 (N.D.N.Y. 1949) (denying request for production of all reports,
investigations, and statements "relating to" the accident upon which action was based).

1 responding party. A request for every document that “relates to” a particular subject requires the
2 responding party to ascertain for itself which documents might “relate”—in any conceivable way, no
3 matter how tenuous the nexus—to the stated subject. Not surprisingly, opponents in litigation might
4 have very different ideas about whether a given document is “related to” a particular subject. If this
5 kind of request were allowed, a requesting party could improperly conscript the responding party and
6 its counsel to educate the requesting party as to which kinds of documents “relate to” a given
7 subject. This would allow the requesting party “to perform its functions without wits or on wits
8 borrowed from the adversary,” see Hickman v. Taylor, 329 U.S. 495, 516 (1947) (Jackson, J.,
9 concurring), and essentially would violate the work-product doctrine.

10 In addition, this kind of formulation frequently encompasses a broad array of facts and
11 circumstances, some of which have little or no relevance to the subject matter involved in the
12 pending action. “Where it is sought to discover information which can have no possible bearing on
13 the determination of the action on its merits, it can hardly be within the rule.” Washoe Cty. Bd. of
14 Sch. Trs. v. Pirhala, 84 Nev. 1, 5, 435 P.2d 756, 758 (1968) (quoting Jeppesen v. Swanson, 68
15 N.W.2d 649, 657 (Minn. 1955)). Put differently, a request that encompasses irrelevant information is
16 not permissible merely because it also happens to include relevant material; such a request may be
17 narrowed or denied by the Court, with or without a proper motion or objection. See NRCP
18 26(b)(2)(iii). A court may overlook a party’s use of the phrase “related to” (or similar phrasing) if the
19 kinds of documents sought by the requesting party are otherwise apparent (and discovery of those
20 documents is otherwise appropriate).⁴ But most often, a party’s use of this type of formulation is
21 objectionable.

22 ⁴ For example, a hypothetical request for “all documents relating to bank statements” (for a particular bank
23 account at a specified bank over a given period of time) might be enforced; the court might choose to simply disregard
24 “documents relating to” and enforce the remainder of the request for the bank statements. But the Court may properly
25 engage in this course only if the request provides specific guidance about what is sought, and the documents are
26 otherwise discoverable. See Johnson v. Kraft Foods N. Am., Inc., 236 F.R.D. 535, 542 (D. Kan. 2006) (“[t]he Court,
however, will not compel further response [to a request for production] when inadequate guidance exists to determine the
proper scope of a request”); Mackey v. IBP, Inc., 167 F.R.D. 186, 198 (D. Kan. 1996) (to require an answer to an
interrogatory without sufficient guidance typically involves an improper arbitrary determination by the court); cf. MBIA Ins.
Corp. v. Countrywide Home Loans, Inc., 895 N.Y.S.2d 643, 650 (Sup. Ct. 2010) (“[o]rdinarily, the courts eschew pruning
overbroad disclosure demands, preferring instead to strike the requests in total and leaving the propounding party to
reformulate its requests”); In re TIG Ins. Co., 172 S.W.3d 160, 168 (Tex. App. 2005) (“[t]he burden to propound discovery
complying with the rules of discovery should be on the party propounding the discovery, and not on the courts to redraft
overly broad discovery so that, as re-drawn by the court, the requests comply with the discovery rules”).

1 The gist of Category No. 4 is that Skarpelos is seeking documents through which the
2 referenced account was opened, and he uses subparts in making that request. The first is for “any
3 application or other document signed by Skarpelos requesting Weiser to open the 2992 Account.”
4 This subpart does not use omnibus phrasing and no other objection is asserted by Weiser. Further,
5 the request is not patently objectionable. Therefore, subpart (a) is permissible as drafted.

6 In subpart (b), Skarpelos seeks “any other document signed by Skarpelos related to the
7 opening or creation of the 2992 Account.” In Subpart (c), he similarly seeks “any other document
8 signed by any person purporting to have authority to sign on behalf of Skarpelos related to opening
9 or creation of the 2992 Account.” As drafted, these subparts are problematic for the reasons stated
10 above. But the purpose of Category No. 4 is otherwise apparent—to obtain documents used to
11 open or create this account. Therefore, the Court will disregard the term “related to,” but will
12 otherwise enforce these subparts. Subpart (b) will be construed as encompassing only “any other
13 document signed by Skarpelos to open or create the 2992 Account,” and subpart (c) will be similarly
14 construed as including only “any other document signed by any person purporting to have authority
15 to sign on behalf of Skarpelos to open or create the 2992 Account.”

16 In the last paragraph of its response, Weiser identifies the same eight documents that it
17 previously identified in its response to Category No. 3. This response is permissible as far as it
18 goes. However, the possibility exists that one or more other responsive documents were not
19 produced by Weiser based upon its objections to subparts (b) and (c). Therefore, Weiser must
20 serve an amended response to Category No. 4, without objections, in which it identifies all
21 documents within its possession, custody, or control that are responsive to Category No. 4, as
22 narrowed by the Court. To the extent that identified documents have not already been produced,
23 then Weiser must produce them with the amended response.

24 D. Category No. 5

25 In this category, Weiser is asked to “[p]roduce copies of any account statements, summaries
26 of account statements or any similar statements for the 2992 Account for the periods: (a) between

1 the inception of the account and February 1, 2013; and (b) between January 1, 2013, to the
2 present.” Its response is as follows:

3 Objection. Not all of the documents are in Weiser’s possession, custody, or
4 control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of
5 such documents. Also, the request is irrelevant to the extent that it seeks to discover
6 evidence not reasonably calculated to lead to the discovery of admissible evidence.
7 Further, discovery is continuing and Weiser reserves the right to supplement this
8 response with new or additional information if and when it becomes available.

9 Without waiving these objections, Weiser responds as follows: Weiser has no
10 documents responsive to this request.

11 As explained in connection with Category No. 2, the statements in the first paragraph of this
12 response do not constitute valid objections. Nevertheless, Weiser has stated, without equivocation,
13 that it “has no documents responsive to this request.” Therefore, Skarpelos has received a proper
14 response to Category No. 5—Weiser has no such documents. At this time, Skarpelos has not
15 demonstrated that Weiser’s response is false, incomplete, or otherwise inaccurate. Therefore, no
16 further response to Category No. 5 is required.

17 E. Category No. 6

18 In Category No. 6, Skarpelos asks Weiser to “[p]roduce copies of any documents that reflect
19 or evidence that account statements, summaries of account statements or other similar documents
20 relating to the 2992 Account were ever mailed, emailed or otherwise delivered to Skarpelos or any
21 authorized agent of Skarpelos.” Weiser’s response is as follows:

22 Objection. Not all of the documents are in Weiser’s possession, custody, or
23 control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of
24 such documents. Also, Skarpelos has not yet identified all of his authorized agents.
25 Further, discovery is continuing and Weiser reserves the right to supplement this
26 response with new or additional information if and when it becomes available.

 Without waiving these objections, Weiser responds as follows: See
documents previously produced and identified by Bates Nos. WEISER000378-
000380.

Most of the statements in the first paragraph of Weiser’s response have been addressed previously,
and do not constitute objections. The statement that “Skarpelos has not yet identified all of his
authorized agents” arguably constitutes a valid objection. Weiser is essentially stating that it cannot

1 fairly be asked to produce the requested documents that were delivered to “any authorized agent of
2 Skarpelos” until he has identified all authorized agents.

3 However, in responding to a request for production, a party must produce responsive
4 documents to the extent that the request is not objectionable. See NRCP 34(b)(2)(C). Therefore,
5 Weiser must produce the documents described in this category to the extent that they were ever
6 mailed, emailed, or otherwise delivered to Skarpelos or any person believed by Weiser to be an
7 authorized agent of Skarpelos. Although Weiser has identified one three-page document, its
8 response raises the possibility that other responsive documents were withheld from production
9 based upon its objection. Therefore, Weiser must serve an amended response to Category No. 6, in
10 which it identifies all documents in its possession, custody, or control that are responsive to this
11 category, as explained above. To the extent that identified documents have not already been
12 produced, then Weiser must produce them with the amended response.

13 F. Category No. 8

14 In its complaint, Plaintiff alleges that in 2009, it effected a transfer of 6,633,332 shares of
15 Anavex common stock from Anavex to Skarpelos, and issued a stock certificate to Skarpelos.⁵
16 Weiser produced a document as part of its NRCP 16.1 initial disclosures showing that half of
17 Skarpelos’ Anavex stock was sold in April 2013. In Category No. 8, Skarpelos asks Weiser to do the
18 following:⁶

19 WEISER000379 (part of the 2992 Account statement produced by Weiser) reflects a
20 sale of 3,316,666 shares of ANAVEX LIFE SCIENCE CORP. stock on April 2, 2013.
21 In connection with that sale of stock, produce: (a) any documentary evidence that
22 Skarpelos authorized the stock to be sold; (b) any documentary evidence that an
23 authorized agent of Skarpelos authorized the stock to be sold; (c) any notice, letter,
24 memorandum or alert sent to Skarpelos or an authorized agent of Skarpelos advising
25 Skarpelos that the ANAVEX LIFE SCIENCE CORP. stock was going to be sold; (d)
26 any documents that reflect: (1) the sale of the stock; (2) the consideration paid for the
stock; (3) the receipt by Weiser of the sales consideration for the stock; and (4) the

24 ⁵ In March 2013, Skarpelos informed Plaintiff that it lost this certificate, along with another certificate, and
25 requested a replacement for the two lost certificates. Plaintiff issued the replacement certificate, and placed stop transfer
orders against the two lost certificates.

26 ⁶ In the response attached as an exhibit to Skarpelos’ motion, the five subparts of this category are identified as
(a), (b), (c), (c), and (d). The Court does not know whether this error was made in the original request or only in the
response. In any event, in this decision the last two subparts have been redesignated as (d) and (e), respectively, for
clarity.

1 payment of the stock sales proceeds to Skarpelos; and (e) any documentary
2 evidence that Skarpelos or an authorized agent of Skarpelos was advised the
ANAVEX LIFE SCIENCE CORP. stock had been sold.

3 Weiser's response is as follows:

4 Objection. Not all of the documents are in Weiser's possession, custody, or
5 control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of
6 such documents. Also, Skarpelos has not yet identified all of his authorized agents.
7 Further, this request is overbroad, burdensome, and violative of the requirement that
8 requests be stated with particularity in that it seeks documents that "reflect" a given
subject matter. The request is thus irrelevant to the extent that it seeks to discover
evidence not reasonably calculated to lead to the discovery of admissible evidence.
Last, discovery is continuing and Weiser reserves the right to supplement this
response with new or additional information if and when it becomes available.

9 Without waiving these objections, Weiser responds as follows: See
10 documents previously produced and identified by Bates Nos. WEISER000312-
000313; 000328-000338; 000368-000372; 000376-000377.

11 Each statement in the first paragraph of this response has already been addressed. As explained
12 previously, the statements that Skarpelos has not identified all of his authorized agents and that the
13 category uses omnibus phrasing have merit. The Court must therefore analyze the subparts of this
14 category to determine the extent to which those objections render the request unenforceable.

15 In subpart (a), Skarpelos seeks "any documentary evidence that Skarpelos authorized the
16 stock to be sold." This subpart does not implicate the need for identification of authorized agents,
17 and does not employ objectionable omnibus phrasing. If Weiser has possession, custody, or control
18 of documents purporting to show that Skarpelos authorized the referenced stock sale, then Weiser
19 must produce it.

20 In subpart (b), Weiser is asked to produce "any documentary evidence that an authorized
21 agent of Skarpelos authorized the stock to be sold." This subpart does not employ objectionable
22 omnibus phrasing, but it raises an issue over whether Skarpelos has identified all of his authorized
23 agents. Therefore, the Court will use the approach described previously—Weiser must produce the
24 documents described in subpart (b) to the extent that it is maintaining that a given document shows
25 that an individual believed by Weiser to be an authorized agent of Skarpelos authorized the stock to
26 be sold.

1 Subpart (c) is a request for "any notice, letter, memorandum or alert sent to Skarpelos or an
2 authorized agent of Skarpelos advising Skarpelos that the ANAVEX LIFE SCIENCE CORP. stock
3 was going to be sold." This subpart does not employ objectionable omnibus phrasing, but it raises
4 an issue over whether Skarpelos has identified all of his authorized agents. For reasons explained
5 previously, Weiser must produce the requested documents described in this subpart to the extent
6 that the document was either sent to Skarpelos or to an individual believed by Weiser to be an
7 authorized agent of Skarpelos.

8 Skarpelos' use of the omnibus term "reflect" in subpart (d) is objectionable for reasons
9 explained previously, and will not be enforced. However, to the extent Weiser is maintaining or
10 agrees that 3,316,666 shares of Skarpelos' Anavex shares were sold on April 2, 2013, this subpart
11 fairly includes any written agreement pursuant to which the sale occurred, any documents through
12 which payment was made by the purchaser of that stock, and any documents through which
13 payment of the sales proceeds was made to Skarpelos. Subpart (d) will be enforced to this limited
14 extent.

15 In subpart (e), Skarpelos seeks "any documentary evidence that Skarpelos or an authorized
16 agent of Skarpelos was advised the ANAVEX LIFE SCIENCE CORP. stock had been sold." This
17 subpart does not employ objectionable omnibus phrasing, but it raises an issue over whether
18 Skarpelos has identified all of his authorized agents. For reasons explained previously, Weiser must
19 produce any document through which Skarpelos or an individual believed by Weiser to be an
20 authorized agent of Skarpelos was advised that the referenced Anavex stock was sold.

21 In the second paragraph of its response, Weiser identifies twenty pages of documents.
22 However, its response raises the possibility that other responsive documents were withheld from
23 production based upon its objections. Therefore, Weiser must serve an amended response to
24 Category No. 8, in which it identifies all documents in its possession, custody, or control that are
25 responsive to this category, as explained and narrowed above. To the extent that identified
26 documents were not already produced, then Weiser must produce them with the amended response.

ACCORDINGLY, Skarpelos' *Motion to Compel* should be GRANTED in part, and DENIED in part.

IT SHOULD, THEREFORE, BE ORDERED that Weiser serve upon Skarpelos, without objections and no later than November 13, 2017, an amended response to Category Nos. 4, 6, and 8 of the NRCP 34 request for production previously served upon it by Skarpelos, and produce any additional responsive documents not already produced, to the extent required by and in accordance with this decision.

DATED: This 31st day of October, 2017.


WESLEY M. AYRES
DISCOVERY COMMISSIONER

CERTIFICATE OF SERVICE

CASE NO. CV15-02259

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 31st day of October, 2017, I electronically filed the **RECOMMENDATION FOR ORDER** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

ALEXANDER H. WALKER III, ESQ., for NEVADA AGENCY AND TRANSFER COMPANY

CLAYTON P. BRUST, ESQ. for NEVADA AGENCY AND TRANSFER COMPANY

JOHN FRANCIS MURTHA, ESQ. for ATHANASIOS SKARPELOS

WALTER CHRIS WICKER, ESQ. for ATHANASIOS SKARPELOS

JEREMY J. BORK, ESQ. for WEISER (BAHAMAS) LTD., WEISER ASSET MANAGEMENT, LTD.

FRANK Z. LaFORGE, ESQ. for WEISER (BAHAMAS) LTD., WEISER ASSET MANAGEMENT, LTD.

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]


Maureen Conway
Court Clerk

1 CODE NO. 2690
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 NEVADA AGENCY AND TRANSFER COMPANY,
a Nevada corporation,

10 Plaintiff,

Case No. CV15-02259

11 vs.

Dept. No. 10

12 WEISER ASSET MANAGEMENT, LTD., a
Bahamas company, et al.,

13 Defendants.
14 _____/

15
16 **CONFIRMING ORDER**

17 On October 31, 2017, the Discovery Commissioner served a *Recommendation for*
18 *Order* in this action. None of the parties to this action has filed an objection regarding that
19 recommendation and the period for filing any objection concerning that recommendation
20 has expired. See NRCP 16.1(d)(2).
21

22 ACCORDINGLY, the Court hereby CONFIRMS, APPROVES, and ADOPTS the
23 Discovery Commissioner's *Recommendation for Order* served on October 31, 2017.

24 DATED this 17 day of November, 2017.

25
26 
DISTRICT JUDGE

1 CERTIFICATE OF SERVICE

2 CASE NO. CV15-02259

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE
4 OF NEVADA, COUNTY OF WASHOE; that on the 17 day of November, 2017, I electronically filed
5 the **CONFIRMING ORDER** with the Clerk of the Court by using the ECF system.

6 I further certify that I transmitted a true and correct copy of the foregoing document by the
7 method(s) noted below:

8 **Electronically filed with the Clerk of the Court by using the ECF system which will send a**
9 **notice of electronic filing to the following:**

10 ALEXANDER H. WALKER III, ESQ., for NEVADA AGENCY AND TRANSFER COMPANY

11 CLAYTON P. BRUST, ESQ. for NEVADA AGENCY AND TRANSFER COMPANY

12 JOHN FRANCIS MURTHA, ESQ. for ATHANASIOS SKARPELOS

13 WALTER CHRIS WICKER, ESQ. for ATHANASIOS SKARPELOS

14 JEREMY J. BORK, ESQ. for WEISER (BAHAMAS) LTD., WEISER ASSET MANAGEMENT,
15 LTD.

16 FRANK Z. LaFORGE, ESQ. for WEISER (BAHAMAS) LTD., WEISER ASSET
MANAGEMENT, LTD.

17 **Deposited in the Washoe County mailing system for postage and mailing with the United**
18 **States Postal Service in Reno, Nevada: [NONE]**

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1 **Code: 2200**

2 JOHN F. MURTHA, ESQ.

3 **Nevada Bar No. 835**

4 W. CHRIS WICKER, ESQ.

5 **Nevada Bar No. 1037**

6 WOODBURN AND WEDGE

7 Sierra Plaza

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10 Reno, Nevada 89505

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14 Attorneys for Defendant/Cross-Claimant

15 Athanasios Skarpelos

16 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

17 IN AND FOR THE COUNTY OF WASHOE

18 ***

19 NEVADA AGENCY AND TRANSFER
20 COMPANY, a Nevada corporation,

Case No. CV15-02259

Dept. No. 10

21 Plaintiff,

22 vs.

23 **ATHANASIOS SKARPELOS'**
24 **MOTION FOR SUMMARY**
25 **JUDGMENT**

26 WEISER ASSET MANAGEMENT, LTD.,
27 a Bahamas company; ATHANASIOS
28 SKARPELOS, an individual; and
DOES 1-10,

Defendants.

AND RELATED CROSS-CLAIMS

Athanasios Skarpelos ("Skarpelos") is a Defendant, a Cross-Claimant and a Cross-Defendant in this matter. By and through his attorneys, Woodburn and Wedge, he hereby

1 moves this Court for summary judgment pursuant to the provisions of NRCP 56, DCR 13
2 and WDCR 12 as hereinafter provided.

3
4 **1. The Parties.** The parties to this action are Nevada Agency and Transfer
5 Company ("NATCO"), Weiser Asset Management, Ltd. ("Weiser"), Weiser ("Bahamas"),
6 Ltd. ("Bahamas"), and Skarpelos.

7 *A note regarding Weiser and Bahamas: In the Answer and Cross-Claim filed by*
8 *Weiser and Bahamas, they are collectively referred to as "Weiser." In this Motion they will*
9 *be referred to separately because they are not the same entity. In response to Requests for*
10 *Admission served by Skarpelos, Weiser and Bahamas denied that they were the same entity.*
11 *See, Exhibit 7, Response to Request for Admission 9.*

12
13 **2. The Claims.**

14 **A. NATCO's Claim.** NATCO is the transfer agent for a Nevada
15 Corporation known as Anavex Life Sciences Corp. ("Anavex"). Skarpelos, Weiser and
16 Bahamas all claim to be the rightful owner of 3,316,666 shares of Anavex stock (the
17 "Disputed Stock"). NATCO's Amended Complaint filed herein on April 29, 2016, asserts a
18 single Claim for Relief: Interpleader of the Disputed Stock. Skarpelos, Weiser and Bahamas
19 are the named Defendants.

20
21 **B. Skarpelos' Claim.** With his Answer to the Amended Complaint filed
22 herein on May 23, 2016, Skarpelos filed a Cross-Claim against Weiser and Bahamas in
23 which his sole Claim for Relief is for declaratory relief under the provisions of NRS
24 §30.030. He seeks a declaration by this Court that he is the sole and rightful owner of the
25 Disputed Stock.

26
27 **C. Weiser's and Bahama's Claims.** With their Answer to the Amended
28 Complaint filed herein on May 24, 2016, Weiser and Bahamas filed a Cross-Claim against

1 Skarpelos in which they asserted three Claims for Relief: (a) Declaratory Judgment (First
2 Claim); (b) Breach of Contract (Second Claim); and (c) Breach of the Covenant of Good
3 Faith and Fair Dealing (Third Claim). Essentially, Weiser and Bahamas want a declaration
4 from this Court that they are the rightful owners of the Disputed Stock based upon a contract
5 for the sale of the Disputed Stock between Bahamas and Skarpelos entered into in July
6 2013.
7

8 **3. Relief Sought.** By this Motion, Skarpelos seeks summary judgment on: (a)
9 NATCO's interpleader claim; (b) his declaratory relief claim; (c) Weiser's and Bahama's
10 declaratory judgment claim; (d) Weiser's and Bahama's breach of contract claim; and (e)
11 Weiser's and Bahama's claim for breach of the covenant of good faith and fair dealing.
12

13 This Motion is brought pursuant to the provisions of NRCP 56, is based on the
14 pleadings and papers on file herein, the Affidavit of Athanasios Skarpelos¹ and the Affidavit
15 of John F. Murtha, Esq. filed contemporaneously herewith, the Points and Authorities that
16 immediately follow and the exhibits attached hereto.
17

18 DATED this 12th day of March, 2018.

19 WOODBURN AND WEDGE

20 By 

21 John F. Murtha, Esq.
22 W. Chris Wicker, Esq.
23 Attorneys for Defendant/
24 Cross-Claimant
25 Athanasios Skarpelos

26 ¹ The Affidavit of Athanasios Skarpelos is presented in Greek and English. The original affidavit was
27 drafted in English, but under Greek law, a notary public can only give oaths and witness documents written in
28 Greek. Therefore, the original English version was translated to Greek by a Greek attorney and Mr. Skarpelos
signed the Greek translation before a Greek notary public. He also signed the English version, but because it is
not in Greek the Greek notary could not witness it.

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3 **POINTS AND AUTHORITIES IN**
4 **SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

5 **A.**

6 **INTRODUCTION**

7 As noted above, the issue in this case is the ownership of the Disputed Stock.
8 NATCO is the transfer agent for Anavex Life Sciences Corp., a Nevada corporation. As
9 will be demonstrated hereafter, Weiser made a demand on NATCO to transfer ownership of
10 the Disputed Stock on Anavex's stock register claiming it had purchased the Disputed Stock
11 from Skarpelos pursuant to a contract entered into between Weiser and Skarpelos in July
12 2013. When NATCO made inquiry of Skarpelos about Weiser's claim, he denied he sold
13 the Disputed Stock to Weiser. As a result, NATCO commenced this action.

14
15 In Weiser's and Bahama's Cross-Claim against Skarpelos, they alleged "In July
16 2013, Weiser and Skarpelos entered into a contract for a sale of a certain amount of stock.
17 Skarpelos, the former owner of the stock, agreed to sell it to Weiser." In response to a
18 Request for Admission served upon Weiser and Bahama's by Skarpelos, they admitted the
19 Disputed Stock is the "certain amount of stock" referenced in their Cross-Claim. *See,*
20 *Exhibit 7, Request No. 4.* Thus, while this case was initiated as an interpleader action, the
21 real issues are whether: (1) Skarpelos and Weiser and/or Bahamas ever entered into a
22 contract for a sale and purchase of the Disputed Stock and, if yes; (2) whether Weiser and/or
23 Bahamas ever performed their obligations under the contract to claim ownership of the
24 Disputed Stock. The gist of this Motion is that neither Weiser nor Bahamas ever paid
25 Skarpelos for the Disputed Stock and, therefore, their claims must fail. While Skarpelos has
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1 some questions regarding the validity of the alleged contract as will be highlighted
2 hereinafter, for purposes of this Motion the contract will be assumed.
3

4 **B.**

5 **SUPPORTING EVIDENCE**

6 There are seven exhibits attached hereto in support of this Motion. They are:

7 **Exhibit 1** Letter dated October 30, 2015, from Ernesto A. Alvarez, Esq.
8 to Nevada Agency and Transfer Company re: Transfer of
9 Shares of Anavex Life Sciences Corp. Common Stock.

10 **Exhibit 2** Stock Sale and Purchase Agreement dated July 5, 2013,
11 between Skarpelos and Bahamas.

12 **Exhibit 3** A document that appears to be a Statement of Account for a
13 Weiser account in Skarpelos' name for the period between
14 February 1, 2013, and December 31, 2013, bearing Bates Nos.
15 WEISER 378-380.

16 **Exhibit 4** A document that appears to be a Statement of Account for a
17 Weiser account in Skarpelos' name for the period between
18 February 1, 2013, and December 31, 2013, bearing Bates Nos.
19 WEISER 407-409.

20 **Exhibit 5** Defendant/Cross-Claimant Weiser Asset Management, Ltd.'s
21 Answers to Cross-Claimant Athanasios Skarpelos' First Set of
22 Interrogatories.

23 **Exhibit 6** Defendant/Cross-Claimant Weiser Asset Management, Ltd.'s
24 Answers to Cross-Claimant Athanasios Skarpelos' First Set of
25 Requests for Production.

26 **Exhibit 7** Responses to Cross-Claimant Athanasios Skarpelos' Third Set
27 of Requests for Production of Documents to Cross Defendants
28 Weiser Asset Management Ltd. and Weiser (Bahamas) Ltd.

Exhibit 8 Responses to Athanasios Skarpelos' First Requests for
Admission to Weiser Asset Management Ltd. and Weiser
(Bahamas) Ltd.

Additionally, an Affidavit of John F. Murtha, Esq. is being filed contemporaneously
herewith which describes the sources of the exhibits.

1 Finally, an Affidavit of Athanasios Skarpelos' is being filed contemporaneously
2 herewith in which he attests to certain facts that are material to this motion.
3

4 C.

5 **CONCISE STATEMENT OF MATERIAL FACTS**
6 **NOT GENUINELY AT ISSUE**

- 7 1. Paragraph 16 of NATCO's Amended Complaint alleges, in part, as follows:

8 16. On October 30, 2015, Defendant Weiser, through its attorney
9 Ernesto Alvarez, delivered an e-mailed letter to NATCO in which
Defendant Weiser claimed:

10 a. on or about July 12, 2013, Defendant Skarpelos sold
11 3,316,666 shares of common stock of Anavex, but did not
mention to whom Defendant Skarpelos had sold such shares; . . .

- 12 2. In answer to Paragraph 16, Weiser and Bahamas responded as follows:

13 16. Admit.

14 a. The document referenced in this paragraph speaks for
15 itself. Weiser denies the remaining allegations of this
16 paragraph to the extent they are inconsistent with such
document.

17 3. As part of their Initial Disclosure of Witnesses and Documents Pursuant to
18 NRCP 16.1, Weiser and Bahamas produced a copy of the October 30, 2015, letter referenced
19 in Paragraph 16 of NATCO's Amended Complaint. *See, Affidavit of John F. Murtha, p. 2, ¶*
20 *4 and Exhibit 1.* (Hereinafter all references to the Affidavit of John F. Murtha will be:
21 *Murtha, p. ___, ¶ ___.*)
22

23 4. In Paragraph 3 of the general allegations of Weiser's and Bahama's Cross-
24 Claim against Skarpelos, they alleged:

25 3. In July 2013, Weiser and Skarpelos entered into a contract for
26 the sale of a certain amount of stock. Skarpelos, the former owner of
27 the stock, agreed to sell it to Weiser.
28

1 5. Weiser and Bahamas admit that the “certain amount of stock” referenced in
2 Paragraph 3 of their Cross-Claim is the Disputed Stock that is the subject of this litigation.
3
4 *See, Ex. 7, Response to Request for Admission No. 4.*

5 6. In Paragraph 10 of Weiser’s and Bahama’s Cross-Claim, as part of their First
6 Claim (declaratory relief), they alleged:

7 10. Weiser and Skarpelos have each asserted competing and
8 conflicting claims over the entitlement to the stock at issue in their
9 July 2013 contract.

10 7. In Paragraph 13 of Weiser’s and Bahama’s Cross-Claim, as part of their
11 Second Claim (breach of contract), they alleged:

12 13. Weiser and Skarpelos entered into a binding contract in July
13 2013 concerning the sale of certain stock.

14 8. In Paragraph 18 of Weiser’s and Bahamas’ Cross-claim, as part of their Third
15 Claim (breach of the covenant of good faith and fair dealing), they alleged:

16 18. The aforementioned contract contained an implied covenant of
17 good faith and fair dealing, which Skarpelos triggered upon the
18 execution of the contract.

19 9. As part of their Initial Disclosure of Witnesses and Documents Pursuant to
20 NRCP 16.1, Weiser and Bahamas produced a Stock Sale and Purchase Agreement dated July
21 5, 2013, by and between Skarpelos and Bahamas (the “July 2013 Agreement”). *Murtha, p. 2,*
22 *¶ 4 and Exhibit 2.*

23 10. In July 2013, Skarpelos signed an incomplete Stock Sale and Purchase
24 Agreement that provided he would sell 3,316,666 shares of my Anavex stock (the “Disputed
25 Stock”) for \$250,000 cash similar to the July 2013 Agreement, but the document he signed
26 was not dated, it did not have the Buyer identified in the opening paragraph and the Closing
27
28

1 Date in Section 1.3 was blank. *See, Affidavit of Athanasios Skarpelos, p. 3, ¶ 12.*
2
3 (Hereinafter references to Skarpelos' Affidavit shall be: *Skarpelos, p. ___, ¶ ___.*)

4 11. Skarpelos was never advised that the July 2013 Agreement was completed or
5 that the contemplated sale was finalized. *Skarpelos, p. 3, ¶ 13.* During discovery in this case
6 he was provided a copy of the July 2013 Agreement which, of course, is dated, has the name
7 of the Buyer inserted and has a closing date of September 30, 2013. *Id.* He had not seen this
8 version of the July 2013 Agreement until after this litigation was commenced. *Id.*

9
10 12. Section 1.2 of the July 2013 Agreement provides that "The purchase price for
11 the Shares (the **Purchase Price**) is Two Hundred and Fifty Thousand dollars (\$250,000). The
12 Purchase Price shall be paid to the Seller at the Closing, in cash." *See, Exhibit 2.*

13 13. Section 1.3 of the July 2013 Agreement provides that "The closing shall occur
14 on September 30, 2013 or such other date as the parties hereto agree to (the **Closing Date**)."

15 14. In response to Requests for Admission served by Skarpelos, Weiser and
16 Bahamas admitted that:

- 17
18 a. They did not deliver a check in the amount of \$250,000 to
19 Skarpelos on or after September 30, 2013. *See, Exhibit 7,*
Response to Request Nos. 19.
20
21 b. They did not wire transfer \$250,000 to Skarpelos on or after
22 September 30, 2013. *Id., Response to Request Nos. 20.*
23
24 c. They did not deliver a check in the amount of \$250,000 to
25 anyone purporting to be an agent of Skarpelos on or after
26 September 30, 2013. *Id., Response to Request Nos. 22.*
27
28 d. They did not wire transfer \$250,000 to anyone purporting to be
an agent of Skarpelos on or after September 30, 2013. *Id.,*
Response to Request Nos. 23.
e. No agent of either Weiser or Bahamas delivered a check for
\$250,000 to Skarpelos on or after September 30, 2013. *Id.,*
Response to Request Nos. 25.

1 f. No agent of either Weiser or Bahamas wire transferred
2 \$250,000 to Skarpelos on or after September 30, 2013. *See,*
3 *Id., Response to Request Nos. 26.*

4 g. No agent of either Weiser or Bahamas delivered a check for
5 \$250,000 to anyone purporting to be an agent of Skarpelos on
6 or after September 30, 2013. *Id., Response to Request Nos. 28.*

7 h. No agent of either Weiser or Bahamas wire transferred
8 \$250,000 to anyone purporting to be an agent of Skarpelos on
9 or after September 30, 2013. *Id., Response to Request Nos. 29.*

10 15. During discovery Skarpelos sent interrogatories to Weiser and Bahamas One
11 of the interrogatories requested:

12 **Interrogatory No. 4:**

13 Identify any payments, distributions, or loans made by you Athanasios
14 Skarpelos from October 29, 2009, to present.

15 Weiser and Bahamas responded:

16 **Answer to Interrogatory No. 4:**

17 Objection. This request is vague, overly broad, and burdensome in
18 that it is not limited by the subject matter of this lawsuit.
19 Notwithstanding this objection, records from which the response to
20 this interrogatory may be derived or ascertained are set forth in Weiser
21 Bahamas' response to Request for Production No. 4.

22 *See, Exhibit 5, p. 2.*

23 16. Skarpelos' Request for Production No. 4 referenced in the above Answer to
24 Interrogatory No. 4 and Weiser's and Bahamas' response are set out below:

25 **Request for Production No. 4:**

26 Any documents identifying any payments or loan made to Athanasios
27 Skarpelos.

28 **Response to Request for Production No. 4:**

Objection. This request is vague, overly broad, and burdensome in
that it is not limited by date, nor by the subject matter of this lawsuit.
Notwithstanding this objection, no responsive materials are being

1 withheld on this basis. Responsive documents have either been
2 produced or are being produced concurrently herewith and are
3 identified as follows: WEISER 378-380 and 407-409.

4 *See, Ex. 6, p. 3.*

5 17. The documents produced as WEISER 378-380 and 407-409 which are
6 referenced above are attached as **Exhibits 3 and 4.**²

7 18. Neither Weiser nor Bahamas has produced any other documents evidencing
8 payments, distributions, or loans made by them to Skarpelos in response to Request for
9 Production No. 4 other than Exhibits 3 and 4. *Murtha Affidavit, p. 2, ¶ 7.*

10 19. Consistent with Weiser's and Bahamas' responses to Skarpelos' Request for
11 Admission highlighted in Paragraph 14, above, Exhibits 3 and 4 do not reflect a \$250,000
12 payment or distribution to, or withdrawal by, Skarpelos at any time after September 30, 2013.

13 20. Skarpelos never received the \$250,000 Purchase Price, or any part thereof,
14 from Weiser or any other person or entity. *See, Skarpelos, p. 4, ¶ 14.*

15 21. Prior to receiving Exhibits 3 and 4 during the course of this litigation,
16 Skarpelos had never seen the Statement of Account or any other accountings relating to his
17 account with Weiser at any time; not for any period prior to February 1, 2013, and not for
18 any period after December 31, 2013. *Skarpelos, p. 4, ¶ 16.*

19 22. The Statement of Account reflects several debits or withdrawals from the
20 Weiser account in July, August and September 2013, but they were before September 30,
21 2013. *See, Exhibit 3 and 4.* In any event, Skarpelos never received the payments referenced
22 in the Statement of Account. *See, Skarpelos, p. 4, ¶ 18.*

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27 ² Exhibits 3 and 4 are the same document, but with different Bates Nos. assigned to them. They are both
28 being submitted to avoid the confusion that may have resulted if only some of the documents in response to the
request for production were submitted with this Motion.

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C.

LAW AND ARGUMENT

1. Summary Judgment Standard.

Upon a motion for summary judgment, the court must analyze the evidence presented “in the light most favorable to the nonmoving party[.]” and “th[e nonmoving] party bears the burden to do more than simply show that there is some metaphysical doubt” about the operative facts in order to successfully avoid summary judgment being entered against it. *Wood v. Safeway*, 121 Nev. 724, 121 P.3d 1026 (2005).

The Nevada Supreme Court finds that “[s]ummary judgment is appropriate when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Wood*, 121 Nev. at 731, 121 P.3d at 1031 (expressly adopting the standard of review in United States Supreme Court cases *Anderson v. Liberty Lobby*³, *Celotex Corp. v. Catrett*⁴, and *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*⁵) (citing NRCP 56(c)). A dispute of fact is “genuine” if a rational trier of fact hearing the evidence presented could return a verdict for the nonmoving party.

In response to a motion for summary judgment, the nonmoving party is not allowed “to build a case on the gossamer threads of whimsy, speculation, and conjecture.” *Wood*, 121 Nev. at 731, 121 P.3d at 1030. Therefore, a nonmoving party cannot simply rely on its denials in its answer to a complaint to defeat a summary judgment motion, and it is required to present “by affidavit or otherwise, [...] specific facts demonstrating the existence of a

³ 477 U.S. 242, 106 S. Ct. 2505 (1986).

⁴ 477 U.S. 317, 106 S. Ct. 2548 (1986).

⁵ 475 U.S. 574, 106 S. Ct. 1348 (1986).

1 genuine issue for trial. *Id.* at 732, 121 P.3d at 1031 (citing *Bulbman v. Nevada Bell*, 108 Nev.
2 105, 825 P.2d 588 (1992)).

3
4 **2. A Party That Fails to Perform its Obligations Under a Contract Cannot**
5 **Sue the Counterparty to the Contract for Breach of Contract.**

6 Assuming for purposes of this Motion that a contract existed pursuant to which
7 Skarpelos agreed to sell the Disputed Stock for \$250,000, neither Weiser nor Bahamas can
8 sue Skarpelos for breach of contract because they failed to perform their obligation under
9 the July 2013 Agreement to pay Skarpelos for the stock.

10
11 In Nevada, a breach of contract is “said to be a material failure of performance of a
12 duty arising under or imposed by agreement.” *Bernard v. Rockhill Development Co.*, 103
13 Nev. 132, 734 P.2d 1238 (1987) (quoting *Malone v. University of Kansas Med. Center*, 220
14 Kan. 371, 552 P.2d 885, 888 (1976)). To succeed on a breach of contract claim, a party
15 needs to meet the following elements: (1) formation of a valid contract; (2) performance or
16 excuse of performance by the party asserting a claim for breach of contract; (3) material
17 breach; and (4) damages. *See id.*; *see also Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d
18 1259 (2000); *Walker v. State Farm Mutual Automobile Insurance Company*, 259 F. Supp. 3d
19 1139 (D. Nev. 2017) (citing *Bernard*, 103 Nev. 132, 734 P.2d 1238, 1240); *Reichert v. Gen.*
20 *Ins. Co. of Amer.*, 68 Cal. 2d 822, 442 P.2d 377 (1968).

21
22 In Nevada, it is “well settled ... that the **party who commits the first breach of a**
23 **contract cannot maintain an action against the other [party] for a subsequent failure to**
24 **perform.”** *Bradley v. Nevada-California-Oregon Ry.*, 42 Nev. 411, 178 P. 906 (1919) (citing
25 *Loudenback v. Tennessee Phosphate Co.*, 121 F. 298 (6th Cir. 1903)). Therefore, a plaintiff
26 who sufficiently states a cause of action for breach of contract must first allege in its
27 complaint that it fully performed under the contract or had a justifiable excuse for such
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1 nonperformance. *See* Bradley, 42 Nev. at 908-09; *Hilton Hotels*, 109 Nev. 1043, 862 P.2d
2 1207; *see also, e.g., Abdelhamid v. Fire Ins. Exch.*, 182 Cal. App. 4th 990, 106 Cal. Rptr. 3d
3 26 (Ct. App. Cal. 2010) (stating that “[t]he standard elements of claim for breach of contract
4 are : (1) the contract; (2) **plaintiff’s performance or excuse for nonperformance**; (3)
5 defendant’s breach; and (4) damage to plaintiff therefrom.”); *Doud v. Toy Box Dev. Co.*, 798
6 F.3d 709 (8th Cir. 2015) (finding that plaintiff must show (1) the existence of a contract; (2)
7 the terms and conditions of the contract; (3) **that he[/she] has performed all the terms and**
8 **conditions required under the contract**; (4) the defendant’s breach of the contract in some
9 particular way; and (5) that he[/she] has suffered damages as a result of the breach.”).

10 While Weiser and Bahamas allege in their Cross-Claim that they performed their
11 obligations under the July 2013 Agreement (*see, ¶ 4 of Weiser’s Cross-Claim*), it is now time
12 for them to prove performance. When summary judgment is sought, a nonmoving party
13 cannot simply rely on its denials in its answer to a complaint to defeat the motion; it is
14 required to present “by affidavit or otherwise, [...] specific facts demonstrating the existence
15 of a genuine issue for trial. *Id.* at 732, 121 P.3d at 1031 (citing *Bulbman v. Nevada Bell*, 108
16 Nev. 105, 825 P.2d 588 (1992)). As illustrated in the Statement of Material Facts Not
17 Genuinely at Issue set forth in Section B (2), above and as summarized below, neither Weiser
18 nor Bahamas can prove performance.

19 **3. Weiser’s and Bahamas’ Claims for Breach of Contract and for Breach of**
20 **the Covenant of Good Faith and Fair Dealing Must Fail by Reason of Their Failure to**
21 **Pay the Purchase Price to Skarpelos.**

22 Before proceeding too far, it is important to emphasize there is no dispute that prior
23 to July 2013, Skarpelos owned the Disputed Stock. This is acknowledged in Paragraph 3 of
24 Weiser’s and Bahamas’ Cross-Claim: they alleged “Skarpelos, the former owner of the
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1 stock, agreed to sell it.” If Skarpelos was the undisputed owner of the Disputed Stock, then
2 the question is on what ground does Weiser or Bahamas claim that they should now be
3 considered the rightful owners the stock?
4

5 It is clear from the allegations in NATCO’s Amended Complaint and Weiser’s and
6 Bahamas’ Cross-Claim that Weiser’s and Bahamas’ claims to the Disputed Stock are rooted
7 in the July 2013 Agreement. That document clearly provides the purchase price for the stock
8 was \$250,000 and it was to have been paid, in cash, at closing (defined as September 30,
9 2013). It is equally clear from the discovery in this case highlighted above that at no time
10 after September 30, 2013, did Weiser or Bahamas send a check or a wire transfer to
11 Skarpelos for \$250,000.
12

13 In Skarpelos’ Request for Production No. 4, Weiser and Bahamas were requested to
14 produce “Any documents identifying any payments or loan made to Athanasios Skarpelos.”
15 The ONLY document Weiser and Bahamas produced in response to this request was the
16 Account Statement attached hereto as Exhibits 3 and 4. The Statement of Account does
17 not reflect a payment to Skarpelos in the amount of \$250,000 after either: (1) the effective
18 date of the July 2013 Agreement; or (2) the contractual closing date of September 30, 2013.
19 Importantly, the Statement of Account does not reflect ANY payments at all to Skarpelos
20 after September 30, 2013, much less one for \$250,000. This is consistent with Weiser’s and
21 Bahamas’ admissions contained in their responses to Skarpelos’ Requests for Admission
22 summarized in Paragraph 14 above, that they never sent Skarpelos \$250,000 by check or
23 wire transfer after September 30, 2013. Neither Weiser nor Bahamas has produced any
24 evidence that Skarpelos was paid the \$250,000 to which he was entitled to under the July
25 2013 Agreement.
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1 By reason of Weiser's and Bahamas' failure to pay Skarpelos for the Disputed Stock,
2 Skarpelos is entitled to summary judgment in his favor on Weiser's and Bahamas' Second
3 Claim (breach of contract) and Third Claim (breach of the covenant of good faith and fair
4 dealing).
5

6 **4. Weiser's Claims for Breach of Contract and for Breach of the Covenant**
7 **of Good Faith and Fair Dealing Must Fail by Reason of the Fact it had no Contract**
8 **with Skarpelos.**

9
10 By all appearances, Weiser is a stranger to the July 2013 Agreement upon which it
11 claims an interest in the Disputed Stock. Weiser is not a party to the July 2013 Agreement.
12 When Weiser's attorney sent the initial letter to NATCO in October 2013 that eventually
13 resulted in NATCO interpleading the Disputed Stock, he said "We are writing on behalf of
14 *Weiser Asset Management, Ltd., a Bahamas company,*" (*See, Exhibit 1 (emphasis added)*),
15 but Weiser does not appear to be a party to the July 2013 Agreement. The preamble to the
16 July 2013 Agreement says the buyer is "Weiser, Ltd." (*see, Exhibit 2, p. 1*) but from that
17 designation it cannot be determined whether Weiser or Bahamas is the buyer. The signature
18 line for the buyer, however, clearly indicates the buyer is "Weiser (Bahamas) Ltd." *Id., p. 3.*
19

20 Weiser has no contract with Skarpelos related to the Disputed Stock. For that reason
21 its breach of contract claim and its claim for breach of the covenant of good faith and fair
22 dealing are baseless.

23 For the reasons set forth above, Skarpelos is entitled to summary judgment in his
24 favor on Weiser's Second Claim (breach of contract) and Third Claim (breach of the
25 covenant of good faith and fair dealing).
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D.

CONCLUSION

Weiser and Bahamas clearly admit Skarpelos was the rightful owner of the Disputed Stock prior to July 2013. They made that allegation in their Cross-Claim and, after all, what logical sense would it make for either of them to enter into an agreement to purchase the Disputed Stock from Skarpelos if he did not own it? Weiser's and Bahamas' claims are based upon the purported July 2013 Agreement under which they failed to perform by paying the \$250,000 purchase price. In any event, Weiser has absolutely no contractual claim to the Disputed Stock because it never had a contract with Skarpelos to purchase it. For all of the reasons set forth above, Skarpelos respectfully requests that this Court grant summary judgment in his favor on: (a) NATCO's interpleader claim; (b) his declaratory relief claim; (c) Weiser's and Bahama's declaratory judgment claim; (d) Weiser's and Bahama's breach of contract claim; and (e) Weiser's and Bahama's claim for breach of the covenant of good faith and fair dealing.

DATED this 12th day of March, 2018.

WOODBURN AND WEDGE

By 

John F. Murtha, Esq.
W. Chris Wicker, Esq.
Attorneys for Defendant/
Cross-Claimant
Athanasios Skarpelos

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person whomsoever.

DATED this 12th day of March, 2018.

WOODBURN AND WEDGE

By 

John F. Murtha, Esq.
W. Chris Wicker, Esq.
Attorneys for Defendant/
Cross-Claimant
Athanasios Skarpelos

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CERTIFICATE OF SERVICE

I certify that I am an employee of the law firm of Woodburn and Wedge, and that on the 12 day of March, 2018, I caused the foregoing document to be delivered to the parties entitled to notice in this action by:

_____ placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada

_____ personal delivery

✓ email

✓ electronic filing

_____ Federal Express or other overnight delivery

as follows:

Via Email

Alexander H. Walker III, Esq.
57 West 200 South, Ste. 400
Salt Lake City, Utah 84101

Clay P. Brust, Esq.
Robison, Sharp, Sullivan & Brust
71 Washington St.
Reno, NV 89503

Via Electronic Service

Jeremy J. Nork, Esq.
Frank Z. LaForge, Esq.
Holland & Hart LLP
5441 Kietzke Lane, 2nd Flr.
Reno, Nevada 89511

Dorise Doreari

INDEX TO EXHIBITS

EXHIBIT #	DESCRIPTION OF EXHIBITS	# OF PAGES
1	Letter from Montello Law to Nevada Agency & Transfer Co. Dated 10/10/15	3
2	Stock Sale and Purchase Agreement	4
3	Statement of Account – Weiser Bates #'s 378-380	4
4	Statement of Account – Weiser Bates #'s 407-409	4
5	Defendant/Cross-Claimant Weiser Asset Management, Ltd.'s Answers to Cross-Claimant Athanasios Skarpelos' First Set of Interrogatories	7
6	Defendant/Cross-Claimant Weiser Asset Management, Ltd.'s Responses to Cross-Claimant Athanasios Skarpelos' First Set of Request For Production	7
7	Responses to Cross-Claimant Athanasios Skarpelos' Third Set of Requests For Production of Documents to Cross Defendants Weiser Asset Management Ltd. and Weiser (Bahamas) Ltd.	8
8	Responses to Athanasios Skarpelos' First Requests For Admission to Weiser Asset Management Ltd. and Weiser (Bahamas) Ltd.	17

EXHIBIT 1

EXHIBIT 1

MONTELLO LAW
2750 N.E. 185th Street, Suite 201
Aventura, Florida 33180

Telephone: (305) 682-2000
Facsimile: (305) 682-3669

October 30, 2015

VIA EMAIL
info@natco.org
AND FEDEX

Nevada Agency and Transfer Company
50 West Liberty Street, Suite 880
Reno, Nevada 89501

Re: Transfer of Shares of Anavex Life Sciences Corp. Common Stock

Ladies and Gentlemen:

We are writing on behalf of Weiser Asset Management Ltd., a Bahamas company ("Weiser"). On or about July 12, 2013, Athanasios Skarpelos ("Seller") sold 3,316,666 shares of common stock (the "Sold Stock") of Anavex Life Sciences Corp., a Nevada corporation ("Anavex"). Subsequently, Weiser delivered to Nevada Agency and Transfer Company ("Transfer Agent"), in its capacity as the transfer agent for Anavex common stock, Stock Certificate No. 0753 for 6,633,332 shares of Anavex common stock issued in the name of Seller (the "Stock Certificate") and a stock power executed by Seller in favor of Weiser to effect the transfer of the Sold Stock to Weiser (the "Stock Power").

In response to Weiser's submission of the Stock Certificate and Stock Power, you advised Weiser that Seller had reported to you that he had lost the Stock Certificate and requested that you issue a replacement certificate. It is our understanding that pursuant to your request, Seller submitted an affidavit under oath in which he stated that he had lost the Stock Certificate. You then issued a replacement certificate to Seller (the "Replacement Certificate").

It is clear that Seller obtained the Replacement Certificate under false pretenses. We hereby demand that you immediately place a stop transfer restriction on the shares of Anavex common stock represented by the Replacement Certificate, cancel the Replacement Certificate, and register on Anavex's stock transfer records Weiser's ownership of the 3,316,666 shares of Anavex common stock. If you have any doubt as to your obligations under applicable law, we remind you that pursuant to Nev. Rev. Stat. §104.8405, if, after the issue of a new security certificate, a protected purchaser of the original certificate presents the original certificate for registration of transfer, the transfer agent must register the transfer.

October 30, 2015

Page 2

We request that you immediately confirm to us in writing that you are taking the steps outlined above. Your immediate action is critical in order to avoid any potential loss or damage to Weiser.

Sincerely,



Ernesto A. Alvarez

cc: Weiser Asset Management Ltd. (via email)

EXHIBIT 2

EXHIBIT 2

STOCK SALE AND PURCHASE AGREEMENT

THIS STOCK SALE AND PURCHASE AGREEMENT (this **Agreement**) is dated as of July 5, 2013 and is made and entered into by and among WEKER LTD. (**Buyer**) and Athanasios Skarpelos (**Seller**) with respect to the following facts:

A.

Seller owns 3,316,666 shares of common stock of Anavex Life Sciences Corp., a Nevada corporation (the **Company**).

B.

Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, 3,316,666 shares of the Company's common stock upon the terms and conditions set forth in this Agreement.

Accordingly, for and in consideration of the premises, the mutual promises, covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer, intending to be legally bound, do hereby agree as follows:

ARTICLE I

SALE AND PURCHASE

Section 1.1

Sale and Purchase of Shares. On and subject to the terms and conditions of this Agreement, effective as of the Closing Date, Buyer shall purchase from Seller, and Seller shall sell to Buyer, Three Million Three Hundred and Sixteen Thousand Six Hundred and Sixty Six (3,316,666) shares of common stock (the **Shares**) of the Company registered in the name of Seller for the consideration specified in Section 1.2 and upon the terms and conditions set forth in this Agreement.

Section 1.2

Purchase Price. The purchase price for the Shares (the **Purchase Price**) is Two Hundred and Fifty Thousand dollars (\$250,000.00). The Purchase Price shall be paid to the Seller at the Closing, in cash.

Section 1.3

Closing Date; Deliveries. The closing shall occur on September 30, 2013 or such other date as the parties hereto may agree to (the **Closing Date**). On the Closing Date, Buyer shall deliver a check in the amount of the Purchase Price to Seller, and Seller shall deliver to Buyer a share certificate representing the Shares issued in the name of the Seller.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

To induce Buyer to enter into and perform its obligations under this Agreement, Seller hereby represents and warrants to Buyer, and covenants with Buyer, as follows:

Section 2.1

Authority and Capacity. Seller has all requisite power, authority and capacity to enter into this Agreement. The execution, delivery and performance of this Agreement by Seller does not, and the consummation of the transaction contemplated hereby will not, result

in a breach of or default under any agreement to which Seller is a party or by which Seller is bound.

Section 2.2

Binding Agreement. This Agreement has been duly and validly executed and delivered by Seller and constitutes Seller's valid and binding agreement, enforceable against Seller in accordance with and subject to its terms.

Section 2.3

Title to Shares. Seller is the lawful, record and beneficial owner of all of the Shares, free and clear of any liens, claims, agreements, charges, security interests and encumbrances whatsoever. The sale, conveyance, assignment, and transfer of the Shares in accordance with the terms of this Agreement transfers to Buyer legal and valid title to the Shares, free and clear of all liens, security interests, hypothecations or pledges.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF BUYER

To induce Seller to enter into and perform their obligations under this Agreement, Buyer represents and warrants to Seller as follows:

Section 3.1

Authority and Capacity. Buyer has all requisite power, authority and capacity to enter into this Agreement. The execution, delivery and performance of this Agreement by Buyer does not, and the consummation of the transaction contemplated hereby will not, result in a breach of or default under any agreement to which Buyer is a party or by which Buyer is bound.

Section 3.2

Disclosure. Buyer has reviewed the SEC Reports and is aware of the Company's business and financial condition.

Section 3.3

Investment Representations. Buyer is acquiring the Shares for Buyer's own account and is not acquiring the Shares with a view to or for sale in connection with any distribution thereof within the meaning of the Securities Act of 1933, as amended.

ARTICLE IV

MISCELLANEOUS

Section 4.1

Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties relating to the subject matter hereof and supersedes any and all prior understandings, agreements, negotiations and discussions, both written and oral, between the parties hereto with respect to the subject matter hereof.

Section 4.2

Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with, and shall be governed by, the laws of the State of California without reference to, and regardless of, any applicable choice of conflicts of laws principles.

Section 4.3

Counterparts. This Agreement may be executed in any number of counterparts and by the several parties hereto in separate counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same Agreement.

Section 4.4

Further Assurances. Each of the parties hereto shall from time to time at the request of any other party hereto, and without further consideration, execute and deliver to such other party such further instruments of assignment, transfer, conveyance and confirmation and take such other action as such other party may reasonably request in order to more effectively fulfill the purposes of this Agreement.

IN WITNESS WHEREOF, this Agreement has been signed by the parties hereto as of the date first above written.

Buyer:


WEISER (BAHAMAS) LTD

Seller:


Athanasios Skarpeles

ΙΚΑΡΟΠΕΙΡΕ ΑΘΑΝΑΣΙΟΣ

09/11/13 11:22

ΣΩΤΗΡΙΟΣ Γ. ΚΑΥΑΛΗΣ

Υπόλληλος Κ.Ε.Π.

Λήγου Βόρειας Κυνουρίας

EXHIBIT 3

EXHIBIT 3



Statement of Account

ACCOUNT

Statement for the period February 1, 2013 - December 31, 2013

Skarpelos, Athanasios
Tirix II Glylada
Athens
Greece

For additional service, contact:
ELIAS SOURSOS
Investment Advisor

ACCOUNT SUMMARY

Estimated Current Value

CASH ON DEPOSIT	4,115.36
COMMON SHARES	N/A
Total Assets	USD 4,115.36

CASH SUMMARY

USD Account	USD 4,115.36
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SECURITIES SUMMARY

USD Account

Quantity	Location	Current Price	Estimated MV
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COMMON SHARES

ANAVEX LIFE SCIENCES CORP	92.500	Res-Seg	N/A
ANAVEX LIFE SCIENCES CORP*	8,318,866	Res-Seg	N/A

*REF partial of cert 0750

Market Value of COMMON SHARES

N/A



SKARPELOS, ATHANASIOS
ACCOUNT

Statement for the period February 1, 2013 - December 31, 2013

ACCOUNT ACTIVITY

Cash - USD

Date	Activity	Value Date	Debit	Credit	Balance
02/01/2013	Opening Balance		(140,287.84)		(140,288)
03/25/2013	*Transfer TRANS USD TO EUR W200802992032513 10,000 EUR	03/28/2013	(13,391.90)		(153,679.54)
03/25/2013	*Wire Out Fee		(125.00)		(153,804.54)
04/02/2013	*STOCK SALE ANAVEX LIFE SCIENCE CORP 3,316,666	04/02/2013		249,580.00	95,775.46
05/09/2013	*Transfer TRANS USD TO EUR W200802992060913 15,000 EUR	05/14/2013	(20,068.40)		75,706.06
05/09/2013	*Wire Out Fee		(125.00)		75,581.06
05/22/2013	*Transfer TRANS USD TO EUR W200802992052213 16,033.90 EUR	05/29/2013	(20,000.00)		55,581.06
05/22/2013	*Wire Out Fee		(125.00)		55,456.06
07/02/2013	*Transfer TRANS USD TO EUR W200802992070213 15,000 EUR	07/08/2013	(18,847.80)		36,608.26
07/02/2013	*Wire Out Fee		(125.00)		35,483.26
08/06/2013	*Transfer TRANS USD TO EUR W200802992080613 15,000 EUR	08/08/2013	(20,857.30)		14,625.96
08/06/2013	*Wire Out Fee		(125.00)		14,500.96
08/18/2013	*Transfer TRANS USD TO EUR W200802992091813 7,500 EUR	08/29/2013	(10,480.80)		4,020.16
09/18/2013	*Wire Out Fee		(125.00)		4,115.36

Securities - USD

Settlement Day	Activity Type	Quantity	Description	Price	Amount
04/02/2013	SELL	3,316,666	ANAVEX LIFE SCIENCES CORP	0.075332	\$249,580.00



Statement for the period February 1, 2013 - December 31, 2013

SKARPELOS, ATHANASIOS
ACCOUNT

Important information on depositing physical certificates with Weiser Asset Management Ltd., is available from your account manager or your financial advisor. Please read the document titled "Escheatment of Physical Certificates".

Effective October 1st 2013 our administrative fee for an Early Settlement Check will be 1% (with minimum of \$50,000)

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—

Terms, conditions & other information:

- This is a statement of your account according to our records. If it is not in accordance with yours please contact the Chief Compliance Officer immediately.
- The prices shown on the statement, used for the purpose of displaying market values, while obtained from sources believed to be reliable, cannot be guaranteed as to their accuracy. In any event, market values are shown as "estimated". If "N/A" appears in connection with any specific security, either there is no price or we were unable to obtain a reliable one.
- We expect prompt settlement of cash balances due to us.
- Credit balances are payable on request upon receipt by us of securities in "good delivery" form that may be owed by you.
- Any free credit balances, with the exception of balances held for registered plans, represent funds payable on demand, which although properly recorded in our books, are not segregated and may be used in the conduct of our business.

EXHIBIT 4

EXHIBIT 4



Statement of Account

ACCOUNT I

Statement for the period February 1, 2013 - December 31, 2013

Skarpelis, Athanasios
Trix II Glyfada
Athens
Greece

For additional service, contact:
ELIAS SOURSOS
Investment Advisor

ACCOUNT SUMMARY

Estimated Current Value

CASH ON DEPOSIT	4,115.36
COMMON SHARES	N/A
Total Assets	USD 4,115.36

CASH SUMMARY

USD Account	USD 4,115.36
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SECURITIES SUMMARY

USD Account

Quantity	Location	Current Price	Estimated MV
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COMMON SHARES

ANAVEX LIFE SCIENCES CORP.	92,900	Res-Seg	N/A
ANAVEX LIFE SCIENCES CORP.	8,318,666	Res-Seg	N/A

(REF price of last 07/13)

Market Value of COMMON SHARES

N/A



Statement for the period February 1, 2013 - December 31, 2013

SKARPELOS, ATHANASIOS
ACCOUNT

ACCOUNT ACTIVITY

Cash - USD

Date	Activity	Value Date	Debit	Credit	Balance
02/01/2013	Opening Balance		(140,287.54)		(140,288)
03/25/2013	*Transfer TRANS USD TO EUR W200802992032613 10,000 EUR	03/26/2013	(13,991.90)		(153,679.54)
03/25/2013	*Wire Out Fee		(125.00)		(153,804.54)
04/02/2013	*STOCK SALE ANAVEX LIFE SCIENCE CORP. 9,316,565	04/02/2013		249,580.00	95,775.46
05/09/2013	*Transfer TRANS USD TO EUR W200802992050913 15,000 EUR	05/14/2013	(20,039.49)		75,705.09
05/09/2013	*Wire Out Fee		(125.00)		75,581.09
05/22/2013	*Transfer TRANS USD TO EUR W200802992052213 15,033.50 EUR	05/29/2013	(20,200.00)		55,381.09
05/22/2013	*Wire Out Fee		(125.00)		55,456.09
07/02/2013	*Transfer TRANS USD TO EUR W200802992070213 15,000 EUR	07/08/2013	(19,847.80)		35,608.29
07/02/2013	*Wire Out Fee		(125.00)		35,483.29
08/05/2013	*Transfer TRANS USD TO EUR W200802992080513 15,000 EUR	08/09/2013	(20,657.30)		14,825.99
08/05/2013	*Wire Out Fee		(125.00)		14,700.99
09/18/2013	*Transfer TRANS USD TO EUR W200802992091813 7,300 EUR	09/23/2013	(10,460.60)		4,240.39
09/18/2013	*Wire Out Fee		(125.00)		4,115.39

Securities - USD

Settlement Day	Activity Type	Quantity	Description	Price	Amount
04/02/2013	SELL	3,316,565	ANAVEX LIFE SCIENCES CORP	0.075332	\$249,580.00



Statement for the period February 1, 2013 - December 31, 2013

SKARPELOS, ATHANASIOS
ACCOUNT

Important information on depositing physical certificates with Weiser Asset Management Ltd., is available from your account manager or your financial advisor. Please read the document titled "Escheatment of Physical Certificates".

Effective October 1st 2013 our administrative fee for an Early Settlement Check will be 1% (with minimum of \$50,000).

Terms, conditions & other information:

- This is a statement of your account according to our records. If it is not in accordance with yours please contact the Chief Compliance Officer immediately.
- The prices shown on the statement, used for the purpose of displaying market values, while obtained from sources believed to be reliable, cannot be guaranteed as to their accuracy. In any event, market values are shown as "estimated". If "N/A" appears in connection with any specific security, either there is no price or we were unable to obtain a reliable one.
- We expect prompt settlement of cash balances due to us.
- Credit balances are payable on request upon receipt by us of securities in "good delivery" form that may be owed by you.
- Any free credit balances, with the exception of balances held for registered plans, represent funds payable on demand, which although properly recorded in our books, are not segregated and may be used in the conduct of our business.

EXHIBIT 5

EXHIBIT 5

DISC

Jeremy J. Nork (SBN 4017)
 Frank Z. LaForge (SBN 12246)
 HOLLAND & HART LLP
 5441 Kietzke Lane, Second Floor
 Reno, Nevada 89511
 Tel: (775) 327-3000; Fax: (775) 786-6179
 jnork@hollandhart.com
 fzlaforge@hollandhart.com

Attorneys for Defendants/Cross-claimants Weiser

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
 COMPANY, a Nevada Corporation,

Plaintiff,

v.

WEISER ASSET MANAGEMENT, LTD.,
 a Bahamas company, WEISER
 (BAHAMAS) LTD, a Bahamas company,
 ATHANASIOS SKARPELOS, an
 individual, and DOES 1 through 10,

Defendants.

WEISER ASSET MANAGEMENT, LTD.,
 a Bahamas company, WEISER
 (BAHAMAS) LTD., a Bahamas company,

Cross-claimants,

v.

ATHANASIOS SKARPELOS, an
 individual,

Cross-defendant.

Case No. CV15-02259

Dept. No. 10

**DEFENDANT/CROSS-CLAIMANT
 WEISER ASSET MANAGEMENT,
 LTD'S ANSWERS TO CROSS-
 CLAIMANT ATHANASIOS
 SKARPELOS' FIRST SET OF
 INTERROGATORIES**

Defendant/Cross-claimant Weiser Asset Management, Ltd. ("Weiser"), by and through
 counsel Holland & Hart LLP, hereby answers defendant and cross-claimant Athanasios
 Skarpepos's First Set of Interrogatories as follows:

INTERROGATORIES

Interrogatory No. 1:

Identify the physical address of your offices, or if you have offices in multiple locations, the physical address of each of your offices.

Answer to Interrogatory No. 1:

Objection. This interrogatory irrelevant and not limited by date. Without waiving this objection, the physical address is: N-10697, Offices at Old Fort Bay, Building #9, Pineapple Place, Lyford Cay, Nassau, Bahamas.

Interrogatory No. 2:

Identify any parent company to Weiser and any Weiser subsidiaries, affiliates, or divisions operating under a different name. For each entity identified, state the physical address of that entity.

Answer to Interrogatory No. 2:

Objection. This request is vague, ambiguous, overbroad, burdensome, oppressive, irrelevant, and not limited by date or subject matter. Without waiving this objection, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Interrogatory No. 3:

Identify any communications by you, including correspondence by electronic mail, letter, or any other means, by telephone, or in person with Athanasios Skarpelos from October 29, 2009 to the present. For each communication state in detail:

- a. The name(s) of any individual(s) communicating with Athanasios Skarpelos;
- b. The date(s) of the communication; and
- c. The subject of the communication.

Answer to Interrogatory No. 3:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by the subject matter of this lawsuit. Notwithstanding this objection, records from which the response to this interrogatory may be derived or ascertained are set forth in Weiser's response to

1 Request for Production No. 8. Further, discovery is continuing and Weiser reserves the right to
2 supplement this response with new or additional information if and when the same becomes
3 available.

4 **Interrogatory No. 4:**

5 Identify any payments, distributions, or loans made by you Athanasios Skarpelos from
6 October 29, 2009 to the present.

7 **Answer to Interrogatory No. 4:**

8 Objection. This request is vague, overly broad, and burdensome in that it is not limited
9 by the subject matter of this lawsuit. Notwithstanding this objection, records from which the
10 response to this interrogatory may be derived or ascertained are set forth in Weiser's response to
11 Request for Production No. 4. Further, discovery is continuing and Weiser reserves the right to
12 supplement this response with new or additional information if and when the same becomes
13 available.

14 **Interrogatory No. 5:**

15 Identify the sale or transfer of any shares of Anavex Life Sciences Corp. stock by you,
16 including any person or entity that purchased or was transferred said stock, any documents
17 created in connection with the sale or transfer of said stock and any payment received by you
18 for the sale or transfer of said stock.

19 **Answer to Interrogatory No. 5:**

20 Objection. This request is vague, overly broad, and burdensome in that it is not limited
21 by date nor by the subject matter of this lawsuit. Notwithstanding this objection, records from
22 which the response to this interrogatory may be derived or ascertained are set forth in Weiser's
23 response to Request for Production No. 3. Further, discovery is continuing and Weiser reserves
24 the right to supplement this response with new or additional information if and when the same
25 becomes available.
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1 **Interrogatory No. 6:**

2 Identify each and every fact or opinion or document relied upon in support of the
3 assertion in paragraph 7 of your Cross-Claim that Weiser is the rightful owner of the stock
4 referred to therein.

5 **Answer to Interrogatory No. 6:**

6 Objection. This request seeks information that is protected by the work-product doctrine
7 and the attorney/client privilege. Notwithstanding this objection, records from which the
8 response to this interrogatory may be derived or ascertained are set forth in the correspondence
9 between Weiser's counsel and the Nevada Agency and Transfer Company which have been
10 previously produced in this matter. Further, discovery is continuing and Weiser reserves the
11 right to supplement this response with new or additional information if and when the same
12 becomes available.

13 **Interrogatory No. 7:**

14 Identify any licenses, certifications, registrations, or any other information
15 demonstrating that Weiser is a stock broker, stock agent, or stock dealer, or is authorized to act
16 as a stock broker, stock agent, or stock dealer.

17 **Answer to Interrogatory No. 7:**

18 Objection. This request is vague, overly broad, and burdensome in that it is not limited
19 by date nor by the subject matter of this lawsuit. Notwithstanding this objection, records from
20 which the response to this interrogatory may be derived or ascertained are set forth in Weiser's
21 response to Request for Production No. 9. Further, discovery is continuing and Weiser reserves
22 the right to supplement this response with new or additional information if and when the same
23 becomes available.

24 **Interrogatory No. 8:**

25 Identify all account documents for any Weiser account opened by, on behalf of, for the
26 benefit of, or maintained by or for Athanasios Skarpelos.
27
28

Answer to Interrogatory No. 8:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by date nor by the subject matter of this lawsuit. Notwithstanding this objection, records from which the response to this interrogatory may be derived or ascertained are set forth in Weiser's response to Request for Production No. 1. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

DATED this 17th day of January, 2017.

By 

Jeremy J. Nork (SBN 4017)
Frank Z. LaForge (SBN 12246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511
Telephone: (775) 327-3000
Facsimile: (775) 786-6179

Attorneys for Defendants/Cross-claimants
Weiser

CERTIFICATE OF SERVICE

I, Martha Hauser, certify:


I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On January 17, 2017, I served the foregoing **DEFENDANT/CROSS-CLAIMANT WEISER ASSET MANAGEMENT, LTD'S ANSWERS TO CROSS-CLAIMANT ATHANASIOS SKARPELOS' FIRST SET OF INTERROGATORIES**, by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope addressed as follows:

Clay P. Brust, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington Street
Reno, Nevada 89503

Alexander H. Walker III, Esq.
57 West 200 South, Suite 400
Salt Lake City, Utah 84101

John F. Murtha, Esq.
W. Chris Wicker, Esq.
Wood and Wedge
6100 Neil road, Suite 500
Reno, Nevada 89505


Martha Hauser

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HOLLAND & HART LLP
5441 KIETZKE LANE, SECOND FLOOR
RENO, NEVADA 89511
(775) 327-3000

EXHIBIT 6

EXHIBIT 6

JAN 13 2017

DISC

Jeremy J. Nork (SBN 4017)
Frank Z. LaForge (SBN 12246)
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Attorneys for Defendants/Cross-claimants Weiser

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

NEVADA AGENCY AND TRANSFER
COMPANY, a Nevada Corporation,

Plaintiff,

v.

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company, WEISER
(BAHAMAS) LTD, a Bahamas company,
ATHANASIOS SKARPELOS, an
individual, and DOES 1 through 10,

Defendants.

WEISER ASSET MANAGEMENT, LTD.,
a Bahamas company, WEISER
(BAHAMAS) LTD., a Bahamas company,

Cross-claimants,

v.

ATHANASIOS SKARPELOS, an
individual,

Cross-defendant.

Case No. CV15-02259

Dept. No. 10

**DEFENDANT/CROSS-CLAIMANT
WEISER ASSET MANAGEMENT
LTD'S RESPONSES TO CROSS-
CLAIMANT ATHANASIOS
SKARPELOS' FIRST SET OF
REQUESTS FOR PRODUCTION**

Defendant/Cross-claimant Weiser Asset Management Ltd. ("Weiser"), by and through
counsel Holland & Hart LLP, hereby responds to defendant and cross-claimant Athanasios
Skarpeleos's First Set of Requests for Production of Documents as follows:

REQUESTS FOR PRODUCTION

Request for Production No. 1:

Any account file for any account opened by, on behalf of, for the benefit of, or maintained by or for Athanasios Skarpelos.

Response to Request for Production No. 1:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by date, nor by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 136-141, 282-291, and 352-367. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 2:

Any account statements for any account opened by, on behalf of, for the benefit of, or maintained by or for Athanasios Skarpelos from the opening of said account to the present date.

Response to Request for Production No. 2:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by date, nor by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 378-380 and 407-409. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 3:

Any documents identifying the sale or transfer of any shares of Anavex Life Sciences Corp. stock from October 29, 2009 to the present.

Response to Request for Production No. 3:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials

are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 6, 11, 26, 31, 51, 156-158, 161-163, 168, 170-172, 186, 207-209, 231, 237, 280-281, 293, 295-297, 316-319, 326-327, 333-337, 350-351, 368, 369, 370-372, 373-375, 376, 377, and 392-393. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 4:

Any documents identifying any payment or loan made to Athanasios Skarpelos.

Response to Request for Production No. 4:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by date, nor by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 378-380 and 407-409. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 5:

The original of any signed documents produced in Weiser's NRCP 16.1 disclosures, any supplemental disclosures, or in response to the instant requests for production of documents.

Response to Request for Production No. 5:

Objection. This request is overly broad and burdensome in that the authenticity of any such documents has not been questioned. Notwithstanding this objection, no responsive materials are being withheld on this basis. Weiser responds to this request as follows: Weiser understands that original signed documents were originally in the possession of Skarpelos and were eventually forwarded to Nevada Agency and Transfer Company. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 6:

All drafts of any contract with Athanasios Skarpelos.

Response to Request for Production No. 6:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by date, nor by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 156-158, 161-163, 207-209, 293, 295-297, 316-319, 326-327, 333-337, 368, 369, 370-372, 373-375, and 392-393. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 7:

All drafts of any contract for the sale or transfer of Anavex Life Sciences Corp. stock from October 29, 2009 to the present.

Response to Request for Production No. 7:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being produced concurrently herewith and are identified as follows: WEISER 156-158, 161-163, 207-209, 293, 295-297, 316-319, 326-327, 333-337, 368, 369, 370-372, 373-375, and 392-393. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when the same becomes available.

Request for Production No. 8:

All emails, letters, or other correspondence between you and Athanasios Skarpelos or any of his agents from October 29, 2009 to the present.

Response to Request for Production No. 8:

Objection. This request is vague, overly broad, and burdensome in that it is not limited by the subject matter of this lawsuit. Notwithstanding this objection, no responsive materials are being withheld on this basis. Responsive documents have either been produced or are being

1 produced concurrently herewith and are identified as follows: WEISER 312, 313, 314, 320-
2 322, 323-325, 328-332, 333-337, 338, 339, 340, 341-343, 345-346, 347-349, 381, 382, 383-387,
3 388-389, 390-391, 394-398, 399-403, 404, 405, 406, 410-411, and 412-414. Further, discovery
4 is continuing and Weiser reserves the right to supplement this response with new or additional
5 information if and when the same becomes available.

6 **Request for Production No. 9:**

7 Any documents identified in your responses to Cross-Claimant Athanasios Skarpelos'
8 First Set of Interrogatories, served herewith.

9 **Response to Request for Production No. 9:**

10 Responsive documents have either been produced or are being produced concurrently
11 herewith and are identified as follows: WEISER 416 and 417-435. Further, discovery is
12 continuing and Weiser reserves the right to supplement this response with new or additional
13 information if and when the same becomes available.

14 DATED this 17th day of January, 2017

15 By 

16 Jeremy J. Nork (SBN 4017)

17 Frank Z. LaForge (SBN 12246)

18 HOLLAND & HART LLP

19 5441 Kietzke Lane, Second Floor

20 Reno, NV 89511

21 Telephone: (775) 327-3000

22 Facsimile: (775) 786-6179

23 Attorneys for Defendants/Cross-claimants
24 Weiser
25
26
27
28

CERTIFICATE OF SERVICE

I, Martha Hauser, certify:

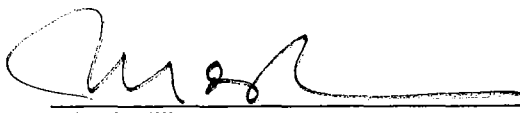
I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On January 17, 2017, I served the foregoing **DEFENDANT/CROSS-CLAIMANT WEISER ASSET MANAGEMENT LTD'S RESPONSES TO CROSS-CLAIMANT ATHANASIOS SKARPELOS' FIRST SET REQUESTS FOR PRODUCTION OF DOCUMENTS**, by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope addressed as follows:

Clay P. Brust, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington Street
Reno, Nevada 89503

Alexander H. Walker III, Esq.
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Martha Hauser

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EXHIBIT 7

EXHIBIT 7

DISC

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Attorneys for Defendants/Cross-claimants Weiser

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NEVADA AGENCY AND TRANSFER
 COMPANY, a Nevada Corporation,

Plaintiff,

v.

WEISER ASSET MANAGEMENT, LTD.,
 a Bahamas company, WEISER
 (BAHAMAS) LTD, a Bahamas company,
 ATHANASIOS SKARPELOS, an
 individual, and DOES 1 through 10,

Defendants.

Case No. CV15-02259

Dept. No. 10

**RESPONSES TO CROSS-CLAIMANT
 ATHANASIOS SKARPELOS' THIRD
 SET OF REQUESTS FOR
 PRODUCTION OF DOCUMENTS TO
 CROSS DEFENDANTS WEISER ASSET
 MANAGEMENT LTD. AND WEISER
 (BAHAMAS) LTD.**

AND RELATED CROSS-ACTIONS.

REQUESTS FOR PRODUCTION

Request for Production No. 1:

Produce the ORIGINAL of Anavex Life Sciences Stock Certificate Number 660 that had previously been deposited with You by Cross-Claimant Anthanasios Skarpelos ("Skarpelos") for inspection by Skarpelos' counsel.

Response to Request for Production No. 1:

Weiser is not in possession of this document, which is currently in the possession of plaintiff Nevada Agency and Transfer Co.

Request for Production No. 2:

Previously you produced documents WEISER000378-380 which is identified as an Account Summary for Account No. 200-802992 for the period from February 1, 2013 through December 31, 2013. You also produced WEISER000352-000361 which appears to be an application for an account with You made by Skarpelos. At page WEISER000361 it appears, the application was approved by You and Account No. 11120001 was assigned to Skarpelos. Produce copies of any account statements for the 11120001 account for the period between the inception of the account (October 13, 2011) and December 31, 2015.

Response to Request for Production No. 2:

Objection. Not all of the documents are in Weiser's possession, custody, or control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when it becomes available.

Without waiving these objections, Weiser responds as follows: Aside from the documents it has already produced, Weiser has no additional documents responsive to this request.

Request for Production No. 3:

Produce full and complete copies of: (a) any application or other document signed by Skarpelos requesting You to open Account 200-802992; (b) any other document signed by Skarpelos to open or create Account 200-802992; and (c) an other document signed by any person purporting to have authority to sign on behalf of Skarpelos related to open or create Account 200-802992.

Response to Request for Production No. 3:

Objection. Not all of the documents are in Weiser's possession, custody, or control. Specifically, Weiser believes that cross-claimant Skarpelos has copies of such documents. Further, discovery is continuing and Weiser reserves the right to supplement this response with new or additional information if and when it becomes available.