



June 4, 2025

VIA CM/ECF

David J. Smith
Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St., N.W.
Atlanta, Georgia 30303

Re: Response to Rule 28(j) Letter
*U.S. Securities and Exchange Commission v. Spartan Securities
Group, Ltd., et al. (No. 22-13129)*

Dear Mr. Smith,

We respond to Plaintiff-Appellee's June 2, 2025 letter regarding *Kousisis v. United States*, 605 U.S. ____ (2025) and *Alabama Aircraft Indus., Inc. v. Boeing Co.*, 133 F.4th 1238 (11th Cir. 2025).

Kousisis is irrelevant to this case. Defendants-Appellants have never relied on the Supreme Court's decision in *Ciminelli v. United States*, 598 U.S. 306 (2023). The Second Circuit's decision in *SEC v. Govil*, 86 F.4th 89 (2d Cir. 2023), stands with or without its discussion of *Ciminelli*. *Id.* at 105. SEC's issue appears to be with the Second Circuit's *Govil* decision. But that court denied SEC's petition for rehearing or rehearing *en banc*. Order, No. 22-1658 (2d Cir. Jan. 24, 2024), ECF 78. And, it appears, SEC did not seek *certiorari*.

Alabama Aircraft Indus., a case alleging unjust enrichment by misappropriation of trade secrets is similarly unhelpful. *See id.* at 1250. In that case, this Court did not opine on the relationship between damages and ill-gotten gains

generally. It did so only in the context of a specific Missouri law that provided for actual loss and unjust enrichment caused by misappropriation. *Id.* at 1249 (quoting Mo. Rev. Stat. § 417.457.1). Those forms of damages are “separate and distinct” as a matter of Missouri law, not general equitable principles, as SEC seems to suggest. *See id.* at 1252–53 (discussing identical provisions in other states’ laws).

Finally, including the Solicitor General’s litigating position in another case is improper, self-serving, and fails to satisfy Rule 28(j)’s “pertinent and relevant” standard. *See* Fed. R. App. P. 28(j). The argument SEC highlights could have been but was not made in these proceedings. *See* BIO at 9, *Navellier & Assocs., Inc. v. SEC*, No. 24-949 (S. Ct. May 5, 2025) (relying on 15 U.S.C. §§ 78u(d)(3) and (5) and *Kokesh v. SEC*, 581 U.S. 455, 463 (2017)). Rule 28(j) does not permit a party “to interject a long available but previously unmentioned issue for decision[.]” *Niemi v. Lasshofer*, 728 F.3d 1252, 1262 (10th Cir. 2013); *United States v. Levy*, 379 F.3d 1241, 1244 (11th Cir. 2004).

Very truly yours,

/s/ Kara M. Rollins

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

SEC v. Spartan Securities Group, Ltd., No. 22-13129

Defendant-Appellant relies on the CIP in Defendants-Appellants' opening brief, Doc. 20, as amended and attached to their November 2, 2023 Rule 28(j) Letter, Doc. 60, as required by Fed. R. App. P. 26.1, 11th Cir. R. 26.1, and 11th Cir. R. 26.1-2(b).

No publicly traded company or corporation has an interest in the outcome of this case or appeal.

/s/ Kara M. Rollins
KARA M. ROLLINS

CERTIFICATE OF COMPLIANCE

This notice complies with Federal Rule of Appellate Procedure 28(j) because it contains 341 words.

/s/ Kara M. Rollins
KARA M. ROLLINS

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system which sent notification of such filing to all counsel of record.

/s/ Kara M. Rollins
KARA M. ROLLINS