

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Civil Action No: 09-C-506

WEALTH MANAGEMENT, LLC,  
JAMES PUTMAN, and SIMONE FEVOLA,

Defendants, and

WML GRYPHON FUND, LLC;  
WML WATCH STONE PARTNERS, L.P.; WML  
PANTERA PARTNERS, L.P.; WML PALISADE  
PARTNERS, L.P.; WML L3, LLC;  
WML QUETZAL PARTNERS, L.P., and  
EMPLOYEE SERVICES OF APPLETON, INC.,

Relief Defendants.

---

**DECLARATION OF DONALD K. SCHOTT**

---

I, Donald K. Schott, declare:

1. I serve as General Counsel for Quarles & Brady, LLP (“Quarles”). I have been an attorney at Quarles for more than thirty-five years.

2. Attached here as Exhibit A is a copy of an email that I sent to Mary Jo Potter of the Lincoln National Life Insurance Company (“Lincoln”) on August 29, 2018.

3. On August 30, 2018, Ms. Potter and I spoke regarding Lincoln’s allegation that Faye Feinstein and Quarles had a conflict of interest in connection with Ms. Feinstein’s appointment as Receiver in this action. I told Ms. Potter that Quarles was not sure what Lincoln saw as a conflict, and that it could not respond to Lincoln’s inquiry as to what Quarles was going to do about the alleged conflict until it knew what Lincoln believed the problem was. Ms. Potter

told me that she was not able to respond to my questions, but that she would discuss the situation with the head of her litigation section, and that either she or he would get back to me.

4. I did not hear anything from Ms. Potter for a few days, so on September 5, 2018, I sent her an email following up on our August 30 call. A copy of that email is attached here as Exhibit B.

5. Despite my follow-up email, I did not hear from Ms. Potter or anyone else at Lincoln until October 19, 2018, more than seven weeks after my August 30 call with Ms. Potter. On October 19, I received a letter from Lincoln's Jeffrey Davis. A copy of that letter is already on file in this action at Dkt. 474-14, and another copy is attached as Exhibit C.

6. On October 24, 2018 I responded to Mr. Davis' letter. Among other things, I noted that although Mr. Davis' letter asserts that both Ms. Feinstein and Quarles have conflicts, it provides no factual or legal analysis supporting that assertion. I also noted that the letter failed to address: (1) the advance waivers Lincoln had provided Quarles more than a year before the litigation against Lincoln National was commenced, (2) the fact that Lincoln was informed of the situation at the time the complaint was filed and did not object and (3) the fact that Lincoln retained Quarles for new matters after the litigation against Lincoln National was commenced. I concluded my letter by suggesting that might make sense to discuss this matter in person or by phone. A copy of this letter is already on file in this action at Dkt. 474-15 and another copy is attached as Exhibit D.

7. Mr. Davis responded with a short letter sent on October 29, 2018. That letter agreed that we should talk by phone, and also asked that I provide copies of the advance waivers referred to in my prior letter. Attached here as Exhibit E is a copy of a letter Mr. Davis' October 29, 2018 letter.

8. After receiving Mr. Davis' letter I sent to him the waiver letters he requested, and we arranged to speak by telephone on November 14, 2018.

9. On November 13, 2018, the day before our scheduled call, Lincoln filed a brief in *WML Gryphon Fund, LLC et al. v. Wood, Hat & Silver, LLC et al.*, Outagamie County Case No. 12-CV-1704. Lincoln's November 13 brief included far more information about Lincoln's "conflict of interest" claim than I had previously been provided in my phone call with Ms. Potter, or the letters I received from Mr. Davis.

10. On November 14, 2018, I spoke with Mr. Davis by phone. I told Mr. Davis that I had reviewed Lincoln's November 13 filing, and I explained why Quarles did not agree with Lincoln's conflict claim. Among other things, I pointed out that Quarles has never represented the plaintiff funds in the litigation, and that Ms. Feinstein was acting as a receiver, not as an attorney. I also pointed out that since Lincoln acknowledged in its November 13 brief that it was a former (not current) client, there was no basis to remove Ms. Feinstein as Receiver even if Lincoln's analysis of the conflict issue had been correct. Mr. Davis was very polite and thanked me for explaining Quarles' position. However, he did not respond to any of the positions I took in this conversation. Instead, he told me that his instructions had been to simply determine Quarles' position and report it to others more senior than himself. Mr. Davis promised that he would report up the chain, and that someone would get back to me.

11. Despite Mr. Davis' promise, I did not hear from Lincoln again on the conflict issue until March 11, 2018, when Lincoln filed its motion to intervene in this action.

12. The affidavit that Jeffrey Davis submitted in support of Lincoln's motion states that "[f]rom 2001 until 2009, [Quarles] represented Lincoln in thirteen matters relating to its

group protection business,” and that “[s]ix of these matters related to disputes involving group life insurance policies.”

13. Based on Quarles’ records, it appears the thirteen matters that Mr. Davis references arose from Quarles’ relationship with Jefferson Pilot Financial Insurance Company (“Jefferson Pilot”), a former Quarles’ client that I understand merged with Lincoln in April 2006.

14. Quarles’ records show that between 2001 and 2009, it opened thirteen matters under Jefferson Pilot’s client number that appear to have been insurance-related.

15. The matter descriptions for these matters suggest that they were either interpleader actions, discrete disputes involving group disability, or what Lincoln describes as “disputes involving group life insurance policies.”

16. None of the matter descriptions suggest that any of the representations concerned the sale of life insurance policies financed with non-recourse premium finance loans.

17. For seven of the thirteen matters, Quarles’ records show that the matter ended and Quarles issued its final bill before the Jefferson Pilot’s April 2006 merger with Lincoln.

18. For two of the remaining six, the “last bill” dates are in April 2006 and May 2006.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of April, 2019.

  
\_\_\_\_\_  
Donald K. Schott

# **EX. A**

**Schott, Donald K. (MAD x2426)**

---

**From:** Schott, Donald K. (MAD x2426) <don.schott@quarles.com>  
**Sent:** Wednesday, August 29, 2018 8:01 AM  
**To:** maryjo.potter@LFG.com  
**Cc:** Feinstein, Faye B. (CHI x6069)  
**Subject:** Phone call

Ms. Potter:

I am the General Counsel of Quarles & Brady. I understand from Faye Feinstein that you wish to speak to me. I am in meetings all day today, but am generally available tomorrow afternoon. If there is a time then that works for you, please let me know and I would be happy to call you.

Don



**Donald Schott / Partner**

don.schott@quarles.com / [LinkedIn](#) [BIO](#) [vCard](#)

**Quarles & Brady LLP**

33 East Main Street, Suite 900 / Madison, WI 53703-3095

Office 608-283-2426 / Cell 608-695-8139 / quarles.com

Assistant Lisa Strand 608-283-2486

**CONFIDENTIALITY NOTICE:** This electronic mail transmission and any attachments are confidential and may be privileged. They should be read or retained only by the intended recipient. If you have received this transmission in error, please notify the sender immediately and delete the transmission from your system.

# **EX. B**

**Schott, Donald K. (MAD x2426)**

---

**From:** Schott, Donald K. (MAD x2426)  
**Sent:** Wednesday, September 5, 2018 4:49 PM  
**To:** 'maryjo.potter@LFG.com'  
**Subject:** Follow-up

Ms. Potter:

I just wanted to follow-up on our call from last Thursday. As I recall, the way we left things was that you were going to discuss the situation with the head of your litigation section and either you or he would get back to me. Please advise where that stands, or if you have a different recollection of where we left things.

Thanks!

Don



# EX. C



Jeffrey M. Davis  
A/P & Sr. Counsel

October 19, 2018

VIA U.S. Mail and Email at [faye.feinstein@quarles.com](mailto:faye.feinstein@quarles.com)

Faye B. Feinstein  
Quarles & Brady, LLP  
300 N. LaSalle Street  
Suite 4000  
Chicago, Illinois 60654

Lincoln Financial Group  
PO Box 21008  
Greensboro, NC 27420  
direct: 336 691-3995  
fax: 336 691-3258  
[jeff.davis@lfg.com](mailto:jeff.davis@lfg.com)

VIA U.S. Mail and Email at [don.schott@quarles.com](mailto:don.schott@quarles.com)

Donald K. Schott  
Quarles & Brady, LLP, General Counsel  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703

Re: Quarles & Brady, LLP Conflict Issue

### CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear Ms. Feinstein and Mr. Schott:

This letter follows your recent communications with Mary Jo Potter. You asked for further information on the conflicts of interest that The Lincoln National Life Insurance Company and its affiliates (Lincoln) recently discovered involving Ms. Feinstein and Quarles & Brady, LLP (Q&B). You also asked for clarification of the relief that Lincoln is seeking from Ms. Feinstein and your firm. Further information on both of those questions follows.

As you know, Ms. Feinstein is currently serving as the receiver in a case initiated by the Securities and Exchange Commission against Wealth Management Funds LLC. In her capacity as receiver, represented by Q&B, Ms. Feinstein authorized the filing of a lawsuit against Lincoln in 2012 (the Gryphon Litigation), and she continues to control the resolution of that still-pending case, wherein her role is directly adverse to that of Lincoln. Prior to the receivership, and throughout the course of the receivership, Ms. Feinstein and Q&B represented Lincoln in a number of transactional and litigation matters. Ms. Feinstein's role and actions as receiver, along with Q&B's representation of Feinstein as receiver, constitute conflicts of interest prohibited by the Rules of Professional Conduct, including Illinois Rules of Professional Conduct 1.7(a)(1) and 1.7(a)(2). A timeline of events further illustrating the continuous conflicts of interest is attached hereto as **Exhibit 1**.

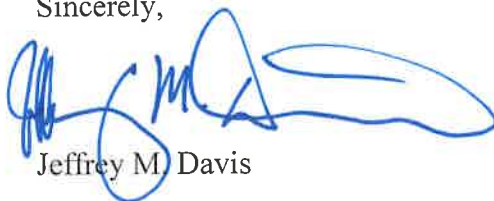
Lincoln has retained outside counsel to advise it regarding the conflicts of interest, and we are considering several potential courses of action against Ms. Feinstein and your firm. Additionally, we intend to inform Lincoln's co-defendants in the Gryphon Litigation of the conflict so that they can govern themselves accordingly.

Faye B. Feinstein  
Donald K. Scott  
October 19, 2018  
Page 2

Based on the foregoing, Lincoln finds it impossible to consider how either Ms. Feinstein or Q&B continue to have any role in the Gryphon Litigation or the receivership. Accordingly, Lincoln demands that Ms. Feinstein immediately resign as receiver and that Q&B have no further role in the matter. Additionally, Lincoln demands that Ms. Feinstein and Q&B disgorge all fees paid by Lincoln to Q&B since May 2009 (when the conflict first arose), in an amount of at least \$2,458,301.23, and waive all pending invoices.

Nothing herein should be construed as a waiver of rights, and Lincoln specifically reserves all of its available rights. We will appreciate Q&B's response on or before October 26, 2018.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey M. Davis", is written over the typed name. The signature is stylized and somewhat illegible.

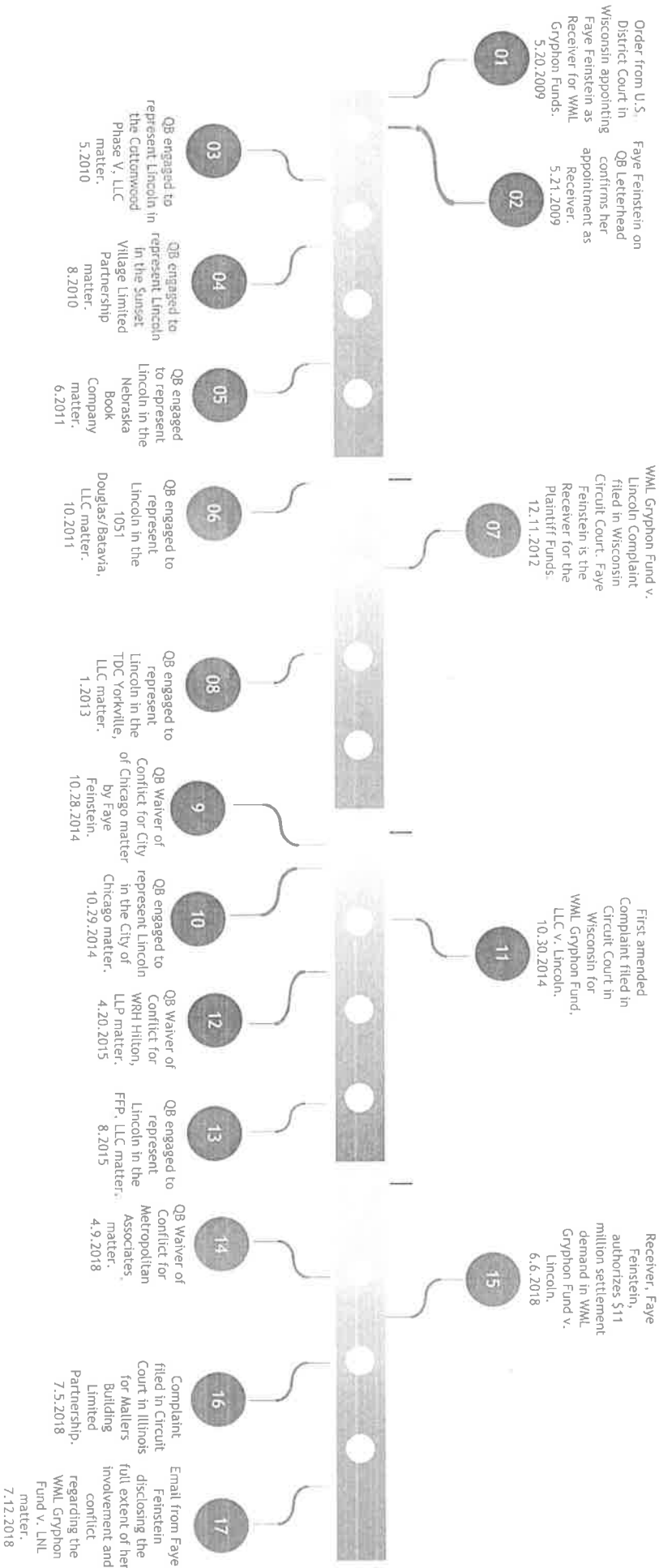
Jeffrey M. Davis

JMD/swn

Attachment



## Timeline of Events Between Quarles & Brady, LLP (“QB”) and The Lincoln National Life Insurance Company (“Lincoln”)



= Faye Feinstein engagement

# EX. D



33 East Main Street  
Suite 900  
Madison, Wisconsin 53703  
608.251.5000  
Fax 608.251.9166  
www.quarles.com

Attorneys at Law in  
Chicago  
Indianapolis  
Madison  
Milwaukee  
Naples  
Phoenix  
Scottsdale  
Tampa  
Tucson  
Washington, D.C.

Writer's Direct Dial: 608.283.2426  
E-Mail: don.schott@quarles.com

October 24, 2018

Jeffrey M. Davis  
Lincoln Financial Group  
P.O. Box 21008  
Greensboro, NC 27420  
jeff.davis@lfg.com

RE: Your Letter of October 19, 2018

Dear Mr. Davis:

Thank you for your October 19, 2018 letter, responding to my August 30, 2018 telephone conversation with Mary Jo Potter.

While I appreciate your response, I find that your conflict of interest analysis fails to provide any real factual or legal support for your assertions. You note that in 2009 Ms. Feinstein was appointed receiver for several funds. You then assert that Ms. Feinstein and Quarles & Brady (which was retained to represent Ms. Feinstein in some aspects of her work as receiver for those funds) both had conflicts of interest with Lincoln Financial Group at the inception of the receivership in 2009, but you provide no facts supporting that assertion.

In December, 2012, several of the funds, acting through Ms. Feinstein as receiver, filed a complaint against, among others, Lincoln National Life Insurance Company. The funds are not represented by Quarles & Brady in this litigation. You assert that both Ms. Feinstein and Quarles & Brady had a conflict as a result of the filing of this complaint, but again your letter contains no factual or legal analysis supporting this assertion. In addition, your letter does not address: (1) the waivers Lincoln Financial Group provided to Quarles & Brady more than a year before the litigation was commenced, (2) the fact that Lincoln was informed of the situation at the time the complaint was filed, and did not object, and (3) the fact that Lincoln retained Quarles & Brady for new matters after the litigation against Lincoln National Life Insurance Company was commenced.

Your letter demands that: (1) Ms. Feinstein immediately resign as receiver for the funds, (2) Q&B have no further role in the receivership, (3) Q&B disgorge all fees paid by Lincoln to

Jeffrey M. Davis  
October 24, 2018  
Page 2

Q&B since May, 2009 and (4) Q&B waive all pending invoices. Again, however, you provide no rationale explaining why there is a basis for any of the relief you seek.

Perhaps it makes sense to pursue this discussion by telephone or in person. If you would be interested in doing so, please let me know.

Very truly yours,



Donald K. Schott

DKS:ls4

cc: Faye Feinstein

**EX. E**





Jeffrey M. Davis  
*AVP & Sr. Counsel*

Lincoln Financial Group  
PO Box 21008  
Greensboro, NC 27420  
direct: 336 691-3995  
fax: 336 691-3258  
[jeff.davis@lfg.com](mailto:jeff.davis@lfg.com)

October 29, 2018

VIA Email Only at [don.schott@quarles.com](mailto:don.schott@quarles.com)

Donald K. Schott  
Quarles & Brady, LLP, General Counsel  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703

Re: Quarles & Brady, LLP Conflict Issue

Dear Mr. Schott:

Thank you for your letter of October 24, 2018. We agree that it makes sense to pursue further discussion by phone. While we set up that call, we would appreciate the opportunity to review the waivers Lincoln Financial Group provided to Quarles & Brady more than a year before the litigation was commenced, as referenced in your letter of October 24, 2018. I will look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to be "JMD", written over a horizontal line.

Jeffrey M. Davis

JMD/swn