

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

FONDO DE INVERSIÓN STELLA,

Plaintiff,

Case No.

v.

PARMENIA LLC, LIZARDO VARGAS,
S.U.R. LLC, and S.U.R. CORPORATION,

Defendants,

_____ /

COMPLAINT

Plaintiff Fondo de Inversión Stella (“FIS”), by and through undersigned counsel, files this Complaint against Defendants Parmenia LLC (“Parmenia”), Lizardo Vargas (“Vargas”), S.U.R. LLC, and S.U.R. Corporation (“S.U.R. Corp.”), and in support thereof alleges the following:

PARTIES

1. FIS is an investment fund with its principal place of business in Lima, Peru.
2. Parmenia is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.
3. Vargas is a natural person and a resident of Lima, Peru. Vargas regularly visits and conducts business in Florida. Vargas is listed in public records as the president of Parmenia and CEO of S.U.R. Corp.
4. S.U.R. LLC is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.
5. S.U.R. Corp. is a Florida for-profit corporation with its principal place of business in Miami-Dade County, Florida.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this case because it is an action for damages in excess of \$30,000, exclusive of interest, attorney's fees, and costs. This Court also has subject matter jurisdiction over this case pursuant to §605.0411 and §607.1604, Fla. Stat.

7. This Court has personal jurisdiction over Defendants because they operate, conduct, engage in, or carry on a business or business venture in Florida.

8. Venue is proper in Miami-Dade County, Florida, because it is where the causes of action alleged herein accrued and where Defendants have or usually keep an office for the transaction of their customary business.

9. All conditions precedent to the bringing of this action have either been performed or they have been waived.

FACTS

10. Canal SUR (Sistema Unido de Retransmisión) is a Spanish-language cable and satellite television network, headquartered in Miami, Florida.

11. In March 2001, Canal SUR agreed to merge with S.U.R. Corp.

12. Before the merger, Canal SUR was owned by Pacacom Corp., which held 64% of its stock, and Asociación Editorial Stella, which held 36% of its stock. S.U.R. Corp. was entirely owned by Pacacom Corp.

13. After the merger, S.U.R. Corp.'s stock was redistributed between Pacacom Corp. (85%) and Asociación Editorial Stella (15%).

Creation of FIS

14. FIS is a private investment fund in which Asociación Editorial Stella and Instituto de los Hermanos de las Escuelas Cristianas, a Catholic religious congregation, are participants.

15. Since 1999, Vargas had managed the assets of Asociación Editorial Stella through his company Value Investments Perú S.A. (“Valinvest”).

16. Vargas convinced the brothers of the congregation that the most efficient way to administer their assets would be an investment fund managed by Valinvest.

17. Based on Vargas’ recommendation, FIS was created on July 1, 2004. At that time, Asociación Editorial Stella transferred its investment portfolio, including its 15% stock in S.U.R. Corp., to FIS.

18. Under Peruvian law, FIS is an autonomous entity that can acquire assets. Because it is autonomous and distinct from its participants, FIS is the sole owner of the assets it acquires.

Creation of S.U.R. LLC

19. On or around May 8, 2009, Vargas represented to FIS that S.U.R. Corp. would change its business structure to a limited liability company.

20. On or around December 17, 2009, FIS agreed not to receive dividends from S.U.R. Corp. until the latter’s change to a limited liability company was completed.

21. On or around June 24, 2010, Vargas informed FIS that S.U.R. Corp. had allegedly been dissolved and that a new entity, named S.U.R. LLC, had been created.

22. Despite Vargas’ representations, S.U.R. Corp. continues to be an active company. Although it continues to operate, S.U.R. Corp. has not paid dividends to FIS since at least 2009.

23. In May 2011, S.U.R. LLC began making \$10,000 monthly distributions to FIS. However, S.U.R. LLC never specified when those distributions had been earned.

Creation of Parmenia

24. On or around October 7, 2011, Parmenia was established as a single-member LLC, entirely owned by FIS.

25. Vargas was appointed as manager of Parmenia, to represent the interests of the fund vis-à-vis Parmenia and S.U.R. LLC.

26. On or around December 16, 2011, Vargas told FIS that the payments from S.U.R. LLC to FIS would be increased to \$20,000 plus what S.U.R. LLC “owed.” However, FIS was not provided any information as to what exactly S.U.R. LLC “owed.”

27. From April 2012 to March 2013, S.U.R. LLC sent \$20,000 per month to FIS. It is not known if these distributions were correct, since a detailed statement was never provided.

28. In December 2012, Vargas informed FIS that, in 2013, S.U.R. LLC would increase its payments to FIS to \$30,000 per month.

29. From April 2013 to July 2014, S.U.R. LLC transferred \$30,000 per month to FIS. It is not known if these distributions were correct, since a detailed statement was never provided.

30. In December 2013, Vargas informed FIS that, in 2014, S.U.R. LLC would begin paying \$40,000 per month to Parmenia, who would then remit the payments to FIS.

31. In February 2014, however, Vargas indicated to FIS that S.U.R. LLC had begun paying \$10,000 per month to Parmenia and would continue sending \$30,000 to FIS.

32. Vargas never provided FIS with accounting and/or financial statements, properly audited, that would allow FIS to gauge the true value of its investment in S.U.R. LLC.

Liquidation of FIS

33. According to the fund’s bylaws, FIS had a term of five years, starting July 1, 2004, that could be renewed by agreement of the fund’s participants.

34. FIS’ last renewed term expired on March 31, 2014. However, Valinvest refused to liquidate and close the fund, without any explanation.

35. Given this irregular situation, the fund’s Investment Committee was summoned on December 5, 2016. At this meeting, Vargas represented that Valinvest would arrange a Participants Assembly to approve the liquidation of FIS. However, this subsequent meeting never took place.

36. Given Valinvest’s inexplicable refusal to call for a Participants Assembly to close the fund, the Oversight Committee proceeded to initiate the liquidation of FIS in September 2020, in accordance with the Peruvian regulatory framework.

37. Pursuant to the applicable regulations, the Oversight Committee appointed Erick Iriarte (“Iriarte”) as liquidator of the fund.

38. As the legally appointed liquidator, Iriarte currently has the exclusive power to act on behalf of FIS.

Requests for records

39. Given the uncertainty regarding the value of FIS’ investment in S.U.R. Corp. and/or S.U.R. LLC and the suspicion of mismanagement, waste, or wrongdoing on the part of Vargas, FIS sought certain books and records from Defendants.

40. On March 19, 2021, FIS sent a letter to Parmenia, demanding to inspect and copy certain records, as provided by §605.0410, Fla. Stat. *See* Letter to Parmenia, at **Exhibit A**.

41. On April 19, 2021, Parmenia responded to FIS’ letter, rejecting its request for an inspection of records. *See* Letter from Parmenia, at **Exhibit B**.

42. In its letter, Parmenia alleges that FIS transferred its interest in Parmenia at some undisclosed time to Atrium Global Investments¹ (“Atrium”), and that as a result “FIS no longer holds any interest in Parmenia.” *Id.*

43. FIS never transferred its transferable interest in Parmenia to Atrium or anyone else.

¹ FIS has not been able to find any records evidencing the existence of such an entity in Florida or elsewhere in the United States. Curiously, Parmenia’s letter is devoid of any details regarding Atrium or the alleged transfer.

44. FIS never authorized Vargas to transfer FIS' transferable interest in Parmenia to Atrium or anyone else.

45. On March 24, 2021, FIS sent a letter to S.U.R. LLC, demanding to inspect and copy certain records, as provided by §605.0410, Fla. Stat. *See* Letter to S.U.R. LLC, at **Exhibit C**.

46. On April 9, 2021, S.U.R. LLC responded to FIS' letter, rejecting its request for an inspection of records. *See* Letter from S.U.R. LLC, at **Exhibit D**.

47. In its letter, S.U.R. LLC alleges that "FIS is not a member of S.U.R., LLC and has not been a member since at the latest 2015 when its earlier transfer of its membership interest to Parmenia, LLC was ratified." *Id.*

48. S.U.R. LLC also claims that FIS has "no interest in the ongoing affairs and activities of S.U.R., LLC," despite FIS being the sole owner of Parmenia. *Id.*

49. On March 24, 2021, FIS sent a letter to S.U.R. Corp., asking to inspect and copy certain records, as provided by §607.1602, Fla. Stat. *See* Letter to S.U.R. Corp., at **Exhibit E**.

50. On April 9, 2021, S.U.R. Corp. responded to FIS' letter, rejecting its request for an inspection of records. *See* Letter from S.U.R. Corp., at **Exhibit F**.

51. In its letter, S.U.R. Corp. asserts that "FIS is not a shareholder in S.U.R. Corp. and, thus, is not entitled to inspect the books and records of S.U.R. Corp." *Id.*

52. FIS has been forced to retain undersigned counsel in order to determine its rights and has agreed to pay its counsel reasonable attorneys' fees.

COUNT I – DECLARATORY JUDGMENT (§86.011, Fla. Stat.)
(Against all Defendants)

53. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

54. Plaintiff requests a declaration of its rights as a member of Parmenia and S.U.R. LLC and/or as a shareholder of S.U.R. Corp.

55. Declaratory relief is proper because Plaintiff is in doubt about the existence of a right and is entitled to have the doubt removed because a justiciable controversy exists, as is more specifically set out below.

56. There is a controversy about Plaintiff's status as a member of Parmenia and S.U.R. LLC and/or as a shareholder of S.U.R. Corp.

57. At the end of 2009, Plaintiff owned 15% of S.U.R. Corp.'s stock. Plaintiff's stake in S.U.R. Corp. had an estimated value at the time of around \$5,250,000. Plaintiff's investment in S.U.R. Corp. also earned it \$120,000 in dividends in 2009.

58. In June 2010, Vargas represented to Plaintiff that S.U.R. Corp. had allegedly been dissolved and that it had been replaced by S.U.R. LLC. Despite Vargas' representations, S.U.R. Corp. continues to be an active company.

59. Because Plaintiff was misled into believing that S.U.R. Corp. had been dissolved, it is unclear what ownership interest Plaintiff currently holds in S.U.R. Corp. or what the value of its stake as a shareholder is.

60. S.U.R. Corp. contends that Plaintiff "is not a shareholder in S.U.R. Corp." **Ex. F.**

61. It is also unclear if Plaintiff's entire ownership interest in S.U.R. Corp. (i.e., 15%) was transferred to S.U.R. LLC, as Vargas never provided audited financial statements to Plaintiff.

62. S.U.R. LLC contends that Plaintiff "has not been a member since at the latest 2015 when its earlier transfer of its membership interest to Parmenia, LLC was ratified." **Ex. D.**

63. It is presently unknown what ownership interest Plaintiff currently holds in S.U.R. LLC, either directly or through Parmenia, or what the value of its stake in the company is.

64. There is also a bona fide, actual, present practical need for a declaration regarding Plaintiff's membership in Parmenia.

65. Parmenia was established in October 2011, with Plaintiff as its sole member.

66. Parmenia now contends that Plaintiff transferred its interest in Parmenia at some undisclosed time to Atrium. **Ex. B.**

67. Plaintiff never transferred, nor authorized Vargas to transfer, its transferable interest in Parmenia to Atrium or anyone else.

68. It is unknown if the alleged transfer to Atrium of Plaintiff's interest in Parmenia ever took place. If such a transfer did in fact occur, it must be declared void, and Plaintiff must be restored as the sole member of Parmenia.

69. A judicial declaration of Plaintiff's status as a member of Parmenia and S.U.R. LLC and/or as a shareholder of S.U.R. Corp. is necessary and appropriate at this time.

WHEREFORE, Plaintiff demands a judgment against Defendants declaring: (a) that any purported transfer of Plaintiff's interest in Parmenia is void; (b) that Plaintiff is the sole member of Parmenia; (c) that Plaintiff, either directly or through Parmenia, has a 15% ownership interest in S.U.R. LLC and/or S.U.R. Corp.; and (d) all other relief that the Court deems just and proper.

COUNT II – BREACH OF FIDUCIARY DUTY
(Against Vargas)

70. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

71. Under the Florida Revised Limited Liability Company Act, Vargas "owes fiduciary duties of loyalty and care to the limited liability company and members of the limited liability company." §605.04091(1), Fla. Stat.

72. Vargas is obligated to discharge his duties to Parmenia and Plaintiff “consistently with the obligation of good faith and fair dealing.” §605.04091(1), Fla. Stat.

73. On information and belief, Vargas has breached his fiduciary duties to Plaintiff by intentionally, willfully, and maliciously divesting Plaintiff of its membership in Parmenia.

74. On information and belief, Vargas has breached his fiduciary duties to Plaintiff by intentionally, willfully, and maliciously converting dividends/distributions earned by Plaintiff.

75. Vargas has also breached his fiduciary duties to Plaintiff by intentionally, willfully, and maliciously denying Plaintiff access to the books and records of Parmenia.

76. As a direct and proximate result of Vargas’ breach of the fiduciary relationship, Plaintiff has suffered damages in an amount to be proven at trial, but that are in no event less than \$5,250,000.

WHEREFORE, Plaintiff demands judgment against Defendant Vargas for: (a) damages, in an amount to be determined at trial; (b) costs, interest, and reasonable attorneys’ fees; and (c) all other relief that the Court deems just and proper.

COUNT III – CONVERSION
(Against Vargas)

77. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

78. Conversion is the “exercise of wrongful dominion and control over the property to the detriment of the rights of its actual owner.” *Venezolanos v. Collazo*, 559 So. 2d 651, 652 (Fla. 3d DCA 1990).

79. Under Florida law, Plaintiff’s transferable interest in Parmenia is personal property. §605.0501, Fla. Stat.

80. On information and belief, Vargas intentionally, willfully, and maliciously caused Plaintiff's transferable interest in Parmenia to be transferred to a third party.

81. As a direct and proximate result of Vargas' conversion of Plaintiff's transferable interest, Plaintiff has suffered damages in an amount to be proven at trial, but that are in no event less than \$5,250,000.

WHEREFORE, Plaintiff demands judgment against Defendant Vargas for: (a) damages, in an amount to be determined at trial; (b) costs, interest, and reasonable attorneys' fees; and (c) all other relief that the Court deems just and proper.

COUNT IV – INSPECTION OF RECORDS (§605.0411, Fla. Stat.)
(Against Parmenia)

82. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

83. Pursuant to the Florida Revised Limited Liability Company Act, Parmenia has an obligation to keep at its principal office or another location the following records:

- (a) A current list of the full names and last known business, residence, or mailing addresses of each member and manager.
- (b) A copy of the then-effective operating agreement, if made in a record, and all amendments thereto if made in a record.
- (c) A copy of the articles of organization, articles of merger, articles of interest exchange, articles of conversion, and articles of domestication, and other documents and all amendments thereto, concerning the limited liability company which were filed with the department, together with executed copies of any powers of attorney pursuant to which any articles of organization or such other documents were executed.
- (d) Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the 3 most recent years.
- (e) Copies of the financial statements of the limited liability company, if any, for the 3 most recent years.

- (f) Unless contained in an operating agreement made in a record, a record stating the amount of cash and a description and statement of the agreed value of the property or other benefits contributed and agreed to be contributed by each member, and the times at which or occurrence of events upon which additional contributions agreed to be made by each member are to be made.

§605.0410(1), Fla. Stat.

84. As a member of Parmenia, Plaintiff has the right to inspect and copy the records described in §605.0410(1), as well as any other records regarding the activities, affairs, financial condition, and other circumstances of Parmenia. *See* §605.0410(3), Fla. Stat.

85. On March 19, 2021, Plaintiff sent a letter to Parmenia, demanding to inspect and copy certain records, as provided by the statute. *See* **Ex. A**.

86. On April 19, 2021, Parmenia responded to Plaintiff's letter, rejecting its request for an inspection of records. *See* **Ex. B**.

87. When a limited liability company does not allow a member, after a proper request, to inspect and copy records, "the circuit court in the county where the limited liability company's principal office is or was last located . . . may summarily order inspection and copying of the records demanded, at the limited liability company's expense, upon application of the member."

§605.0411(1), Fla. Stat.

88. "If the court orders inspection or copying of the records demanded, it shall also order the limited liability company to pay the costs, including reasonable attorney fees, reasonably incurred by the member . . . to obtain the order and enforce its rights." §605.0411(2), Fla. Stat.

WHEREFORE, Plaintiff requests that the Court enter an order: (a) ordering Parmenia to produce the records demanded for inspection and copying; (b) ordering Parmenia to pay the costs, including attorney's fees, reasonably incurred by Plaintiff; and (c) granting all other relief that the Court deems just and proper.

COUNT V – ACCOUNTING
(Against Parmenia)

89. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

90. As a member of Parmenia, Plaintiff is owed the fiduciary duties of loyalty and care. *See* §605.04091(1), Fla. Stat.

91. As a result of this fiduciary relationship, Plaintiff is entitled to an accounting with respect to Parmenia.

92. Plaintiff has previously demanded an accounting from Parmenia’s managers.

93. Parmenia’s managers have failed and/or refused to provide such an accounting.

94. On information and belief, Parmenia’s managers have failed and/or refused to provide such an accounting to conceal their wrongful acts in derogation of Plaintiff’s rights.

95. An accounting is necessary to determine Plaintiff’s monetary damages and in order to determine the true and full information about the financial affairs of the company.

WHEREFORE, Plaintiff requests that the Court enter an order: (a) ordering an accounting of Parmenia; (b) ordering Parmenia to pay the costs, including attorney’s fees, reasonably incurred by Plaintiff; and (c) granting all other relief that the Court deems just and proper.

COUNT VI – INSPECTION OF RECORDS (§605.0411, Fla. Stat.)
(Against S.U.R. LLC)

96. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

97. Pursuant to the Florida Revised Limited Liability Company Act, S.U.R. LLC has an obligation to keep at its principal office or another location the following records:

- (a) A current list of the full names and last known business, residence, or mailing addresses of each member and manager.

- (b) A copy of the then-effective operating agreement, if made in a record, and all amendments thereto if made in a record.
- (c) A copy of the articles of organization, articles of merger, articles of interest exchange, articles of conversion, and articles of domestication, and other documents and all amendments thereto, concerning the limited liability company which were filed with the department, together with executed copies of any powers of attorney pursuant to which any articles of organization or such other documents were executed.
- (d) Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the 3 most recent years.
- (e) Copies of the financial statements of the limited liability company, if any, for the 3 most recent years.
- (f) Unless contained in an operating agreement made in a record, a record stating the amount of cash and a description and statement of the agreed value of the property or other benefits contributed and agreed to be contributed by each member, and the times at which or occurrence of events upon which additional contributions agreed to be made by each member are to be made.

§605.0410(1), Fla. Stat.

98. As a member of S.U.R. LLC, Plaintiff has the right to inspect and copy the records described in §605.0410(1), as well as any other records regarding the activities, affairs, financial condition, and other circumstances of S.U.R. LLC. *See* §605.0410(3), Fla. Stat.

99. On March 24, 2021, Plaintiff sent a letter to S.U.R. LLC, demanding to inspect and copy certain records, as provided by the statute. *See Ex. C.*

100. On April 9, 2021, S.U.R. LLC responded to Plaintiff's letter, rejecting its request for an inspection of records. *See Ex. D.*

101. When a limited liability company does not allow a member, after a proper request, to inspect and copy records, "the circuit court in the county where the limited liability company's principal office is or was last located . . . may summarily order inspection and copying of the

records demanded, at the limited liability company's expense, upon application of the member.”
§605.0411(1), Fla. Stat.

102. “If the court orders inspection or copying of the records demanded, it shall also order the limited liability company to pay the costs, including reasonable attorney fees, reasonably incurred by the member . . . to obtain the order and enforce its rights.” §605.0411(2), Fla. Stat.

WHEREFORE, Plaintiff requests that the Court enter an order: (a) ordering S.U.R. LLC to produce the records demanded for inspection and copying; (b) ordering S.U.R. LLC to pay the costs, including attorney's fees, reasonably incurred by Plaintiff; and (c) granting all other relief that the Court deems just and proper.

COUNT VII – INSPECTION OF RECORDS (§607.1604, Fla. Stat.)
(Against S.U.R. Corp.)

103. Plaintiff incorporates and realleges the allegations in paragraphs 1 through 52 above as if fully set forth herein.

104. Pursuant to the Florida Business Corporation Act, S.U.R. Corp. has an obligation to maintain the following records:

- (a) Its articles of incorporation, as currently in effect;
- (b) Any notices to shareholders referred to in s. 607.0120(11)(d) specifying facts on which a filed document is dependent, if such facts are not included in the articles of incorporation or otherwise available as specified in s. 607.0120(11)(d);
- (c) Its bylaws, as currently in effect;
- (d) All written communications within the past 3 years to shareholders generally or to shareholders of a class or series;
- (e) Minutes of all meetings of, and records of all actions taken without a meeting by, its shareholders, its board of directors, and any board committees established under s. 607.0825;
- (f) A list of the names and business street addresses of its current directors and officers;
and

(g) Its most recent annual report delivered to the department under s. 607.1622.

§607.1601(1), Fla. Stat.

105. S.U.R. Corp. is also obligated to maintain “all annual financial statements prepared for the corporation for its last 3 fiscal years, or such shorter period of existence, and any audit or other reports with respect to such financial statements”; “accounting records in a form that permits preparation of its financial statements”; and “a record of its current shareholders in alphabetical order by class or series of shares showing the address of, and the number and class or series of shares held by, each shareholder.” §607.1601(2)-(4), Fla. Stat.

106. As a shareholder of S.U.R. Corp., Plaintiff has the right to inspect and copy any of the records described in §607.1601(1), as well as any other books and records of S.U.R. Corp., as long as the demand is made in good faith and for a proper purpose. *See* §607.1602, Fla. Stat.

107. On March 24, 2021, Plaintiff sent a letter to S.U.R. Corp., demanding to inspect and copy certain records, as provided by the statute. *See* **Ex. E**.

108. On April 9, 2021, S.U.R. Corp. responded to Plaintiff’s letter, rejecting its request for an inspection of records. *See* **Ex. F**.

109. When a corporation does not allow a shareholder, after a proper request, to inspect and copy records, “the circuit court in the applicable county may summarily order inspection and copying of the records demanded at the corporation’s expense upon application of the shareholder.” §607.1604(1), Fla. Stat.

110. If the court orders the inspection and copying of the records demanded, “it shall also order the corporation to pay the shareholder’s expenses, including reasonable attorney fees, incurred to obtain the order and enforce its rights.” §607.1604(1), (3), Fla. Stat.

WHEREFORE, Plaintiff requests that the Court enter an order: (a) ordering S.U.R. Corp. to produce the records demanded for inspection and copying; (b) ordering S.U.R. Corp. to pay the costs, including attorney's fees, reasonably incurred by Plaintiff; and (c) granting all other relief that the Court deems just and proper.

Dated: April 29, 2021

Respectfully submitted,

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March 19, 2021

VIA PROCESS SERVER

Parmenia, LLC
7341 NW 34th St
Miami, FL 33122
Att: Lizardo Vargas, President

RE: Inspection of Books and Records Pursuant to § 605.0410, Fla. Stat.

Dear Mr. Vargas,

We represent Fondo de Inversión Stella (“FIS”). As you are aware, FIS is the sole member of Parmenia, LLC (“Parmenia” or the “Company”). Pursuant to § 605.0410, Fla. Stat., FIS hereby demands, during regular business hours and at a reasonable location specified by the Company, to inspect the books and records of the Company identified below and to make copies therefrom.

Background

In March 2001, Canal SUR agreed to merge with SUR Corp. Before the merger, Canal SUR was owned by Pacacom Corp., which held 64% of its stock, and Asociación Editorial Stella, which held 36% of its stock. Meanwhile, SUR Corp. was entirely owned by Pacacom Corp. After the merger of both companies, SUR Corp.’s stock was redistributed between Pacacom Corp. (85%) and Asociación Editorial Stella (15%). On July 1, 2004, the investment portfolio of Asociación Editorial Stella was transferred to FIS.

On or around May 8, 2009, Mr. Vargas informed FIS that SUR Corp. would change its corporate form to a limited liability company, a “pass-through” entity that does not pay taxes itself; rather, the owners of the company pay taxes on their share of the profits. On December 17, 2009, FIS agreed not to receive advance dividends from SUR Corp., until the change was completed. On June 24, 2010, FIS learned that SUR Corp. had been dissolved and that a new entity, named SUR LLC had been created. In May 2011, SUR LLC began making \$10,000 monthly distributions to FIS. However, SUR LLC never specified in what period those distributions had been earned.

On October 7, 2011, Parmenia was established as a single-member LLC, entirely owned by FIS.

On December 16, 2011, FIS learned that the payments from SUR LLC to FIS would be increased to \$20,000 plus “what it owed.” However, FIS was not provided any information as to what exactly SUR LLC owed. From April 2012 to March 2013, SUR LLC sent \$20,000 per month to FIS. It is not known if these distributions are correct, since a detailed statement was never provided.

EXHIBIT A



In December 2012, Mr. Vargas informed FIS that in 2013, SUR LLC would increase its payments to FIS to \$30,000 per month. From April 2013 to July 2014, SUR LLC transferred to FIS \$30,000 per month. It is not known if these distributions are correct, since a detailed statement was never provided.

In December 2013, FIS was informed that SUR LLC would begin paying \$40,000 per month to Parmenia, who would then remit the payments to FIS. Instead, in or around February 2014, it was indicated that SUR LLC had begun paying \$10,000 per month to Parmenia and would continue sending \$30,000 to FIS.

For the years 2015 to the present, FIS does not have any books or records evidencing income and expenses from SUR LLC.

Books and Records Demanded

Pursuant to § 605.0410(3)(b)1, Fla. Stat., FIS hereby demands to inspect and copy:

- (a) A current list of the full names and last known business, residence, or mailing addresses of each member and manager;
- (b) A copy of the now-effective operating agreement and all amendments thereto;
- (c) A copy of the articles of organization, articles of merger, articles of interest exchange, articles of conversion, and articles of domestication, and other documents and all amendments thereto, concerning the Company which have been filed with the Department of State, together with executed copies of any powers of attorney pursuant to which any articles of organization or such other documents were executed;
- (d) Copies of the Company's federal, state, and local income tax returns and reports for the 3 most recent years;
- (e) Copies of the financial statements of the Company for the 3 most recent years; and
- (f) A record stating the amount of cash and a description and statement of the agreed value of the property or other benefits contributed and agreed to be contributed by each member, and the times at which or occurrence of events upon which additional contributions agreed to be made by each member are to be made.

Additionally, pursuant to § 605.0410(3)(b)2, Fla. Stat., FIS is entitled to inspect and copy books and records regarding the activities, affairs, financial condition, and other circumstances of the Company if FIS makes a written demand, describing with reasonable particularity the information sought and the purpose for seeking the information, and such information is directly connected to FIS' purpose. Accordingly, FIS hereby demands to inspect and copy:

- Records evidencing the Company's current ownership interest in SUR LLC;
- Communications between the Company and SUR LLC regarding FIS;



- Any documents received from or sent to SUR LLC from 2011 to the present;
- Records evidencing the Company’s receipt of distributions from SUR LLC from 2011 to the present;
- Records evidencing the Company’s receipt of payments other than distributions from SUR LLC from 2011 to the present;
- The Company’s federal, state, and local income tax returns from 2011 to the present;
- Records of the Company’s bank accounts, bank records, and credit card accounts, if any, from 2011 to the present;
- Records evidencing the Company’s compensation of any officers and directors from 2011 to the present; and
- Records evidencing the Company’s current assets and liabilities.

This demand is being made to enable FIS (1) to determine its ownership interest in SUR LLC; (2) to investigate mismanagement, waste, or wrongdoing in connection with Parmenia’s receipt and handling of distributions and other payments from SUR LLC; (3) to determine whether Parmenia’s officers and directors have properly discharged their fiduciary duties to Parmenia and FIS; and (4) to take appropriate action if any wrongdoing is revealed.

In Florida, ascertaining the value of a person’s ownership interest in a company and determining “whether or not the affairs of the corporation are being properly administered by the corporate officers in charge” have been recognized as proper purposes for seeking books and records. *State ex rel. Fussell v. McLendon*, 109 So. 2d 783, 786 (Fla. 3d DCA 1959). The information sought above is directly connected to FIS’ stated purposes.

Time for Compliance

Pursuant to § 605.0410(3)(c), Fla. Stat., you have 10 days after receipt of this letter to inform FIS of the information that the Company will provide in response to this demand and when and where the Company will provide the information or, if the Company declines to provide any demanded information, the Company’s reasons for declining. You can contact us at:

Ayala Law, P.A.
2490 Coral Way, Ste 401
Miami, FL 33145
(305) 570-2208
eduardo@ayalalawpa.com

Consequences of Non-Compliance

Be advised that if Parmenia does not allow FIS to inspect and copy the records requested, a court of competent jurisdiction “may summarily order inspection and copying of the records demanded,

Eduardo A. Maura, Esq.
Luis Quesada, Esq.
Pamela Ferretjans, Esq.

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at the limited liability company's expense." § 605.0411(1), Fla. Stat. In such a case, the court "shall also order the limited liability company to pay the costs, including reasonable attorney fees," incurred by FIS in enforcing its rights. § 605.0411(2), Fla. Stat.

We intend to pursue all recourses available to us to obtain the documents requested and hope to resolve this matter without judicial intervention.

Sincerely,

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

Eduardo A. Maura, Esq.

BRANDY C. ABREU, ESQ.
babreu@amlaw-miami.com



GARY M. MURPHREE, ESQ.
gmm@amlaw-miami.com

April 19, 2021
Via email to eduardo@ayalalawpa.com

Eduardo A. Maura, Esq.
Ayala Law, PA
2490 Coral Way, Suite 401
Miami, FL 33145

Re: Parmenia, LLC (Parmenia) re Fondo de Inversión Stella (FIS)'s document inspection request

Dear Mr. Maura:

We have been retained to respond to your letter dated March 19, 2021 requesting to inspect the books and records of Parmenia on behalf of FIS, pursuant to Fla. Stat. §§ 605.0410(3)(b)(1) and 605.0410(3)(b)(2). As a result of FIS' transfer of its interest in Parmenia to Atrium Global Investments (Atrium), FIS no longer holds **any interest** in Parmenia. Section 605.0410(3)(b)(3) expressly limits inspection rights to "members". Section 605.0102(40) defines a "member" as a person who is a member of the limited liability company under § 605.0401, and who has not dissociated from the company under § 605.0602(5)(b) by a transfer of the person's entire transferable interest, which is applicable under these circumstances. FIS is no longer a member in Parmenia; and, therefore, not entitled to inspect the books and records or financial information of Parmenia.

Equally fatal to FIS' request, is that the very issue of who may properly act on behalf of FIS, including issuing an inspection request and retaining you to do so, is at issue in arbitration currently pending in Peru. My understanding is that all the parties in interest regarding who may properly act for FIS have joined that arbitration. Value Investments Peru, S.A. (Valinvest) initiated the arbitration proceeding in Peru against two of the participants in FIS - Asociación Editorial Stella and Instituto de los Hermanos de las Escuelas Cristianas La Salle, to accept VALINVEST as the administrator of FIS. The *de jure* authority of Erick Iriarte as the liquidator of

FIS is at issue. Under well-settled principles of comity, Parmenia must await the arbitrators' ruling as to the appropriate person to speak for FIS.

For these reasons, Parmenia rejects your inspection request under Florida law and in deference to the Peruvian arbitration. We believe this rejection is reasonable within the meaning of § 605.0411(2) and will seek an award of reasonable attorneys' fees and costs should you file an action.

Sincerely,

/s/ Gary M. Murphree

Gary M. Murphree

Eduardo A. Maura, Esq.
Luis Quesada, Esq.
Pamela Ferretjans, Esq.

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March 24, 2021

VIA PROCESS SERVER

S.U.R., LLC
c/o BGRS Consulting, LLC
1901 Brickell Ave, PH 4-B
Miami, FL 33129
Att: Arturo Delgado, Manager

RE: Inspection of Books and Records Pursuant to § 605.0410, Fla. Stat.

Dear Mr. Delgado,

We represent Fondo de Inversión Stella (“FIS”). As you are aware, FIS is a member of S.U.R., LLC (“SUR” or the “Company”). Pursuant to § 605.0410, Fla. Stat., FIS hereby demands, during regular business hours and at a reasonable location specified by the Company, to inspect the books and records of the Company identified below and to make copies therefrom.

Background

In March 2001, Canal SUR agreed to merge with S.U.R. Corporation. Before the merger, Canal SUR was owned by Pacacom Corp., which held 64% of its stock, and Asociación Editorial Stella, which held 36% of its stock. Meanwhile, S.U.R. Corporation was owned in its entirety by Pacacom Corp. After the merger of both companies, S.U.R. Corporation’s stock was redistributed between Pacacom Corp. (85%) and Asociación Editorial Stella (15%). On July 1, 2004, the investment portfolio of Asociación Editorial Stella was transferred to FIS.

On or around May 8, 2009, Lizardo Vargas informed FIS that S.U.R. Corporation would change its corporate form to a limited liability company, a “pass-through” entity that does not pay taxes itself; rather, the owners of the company pay taxes on their share of the profits. On December 17, 2009, FIS agreed not to receive advance dividends from S.U.R. Corporation, until the change was completed. On June 24, 2010, FIS was told that S.U.R. Corporation had been dissolved and that a new entity, named S.U.R. LLC had been created. Despite these representations, FIS has recently learned that S.U.R. Corporation continues to be an active company.

In May 2011, S.U.R. LLC began making \$10,000 monthly distributions to FIS. However, S.U.R. LLC never specified in what period those distributions had been earned. On or around October 7, 2011, Parmenia, LLC was established as a single-member LLC, entirely owned by FIS.

On December 16, 2011, FIS learned that the payments from S.U.R. LLC to FIS would be increased to \$20,000 plus “what it owed.” However, FIS was not provided any information as to what exactly

EXHIBIT C



S.U.R. LLC owed. From April 2012 to March 2013, S.U.R. LLC sent \$20,000 per month to FIS. It is not known if these distributions are correct, since a detailed statement was never provided.

In December 2012, Vargas informed FIS that in 2013, S.U.R. LLC would increase its payments to FIS to \$30,000 per month. From April 2013 to July 2014, S.U.R. LLC transferred to FIS \$30,000 per month. It is not known if these distributions are correct, since a detailed statement was never provided.

In December 2013, FIS was informed that S.U.R. LLC would begin paying \$40,000 per month to Parmenia, who would then remit the payments to FIS. Instead, in or around February 2014, it was indicated that S.U.R. LLC had begun paying \$10,000 per month to Parmenia and would continue sending \$30,000 to FIS.

For the years 2015 to the present, FIS does not have any books or records evidencing income and expenses from S.U.R. LLC.

Books and Records Demanded

Pursuant to § 605.0410(3)(b)1, Fla. Stat., FIS hereby demands to inspect and copy:

- (a) A current list of the full names and last known business, residence, or mailing addresses of each member and manager;
- (b) A copy of the now-effective operating agreement and all amendments thereto;
- (c) A copy of the articles of organization, articles of merger, articles of interest exchange, articles of conversion, and articles of domestication, and other documents and all amendments thereto, concerning the Company which have been filed with the Department of State, together with executed copies of any powers of attorney pursuant to which any articles of organization or such other documents were executed;
- (d) Copies of the Company's federal, state, and local income tax returns and reports for the 3 most recent years;
- (e) Copies of the financial statements of the Company for the 3 most recent years; and
- (f) A record stating the amount of cash and a description and statement of the agreed value of the property or other benefits contributed and agreed to be contributed by each member, and the times at which or occurrence of events upon which additional contributions agreed to be made by each member are to be made.

Additionally, pursuant to § 605.0410(3)(b)2, Fla. Stat., FIS is entitled to inspect and copy books and records regarding the activities, affairs, financial condition, and other circumstances of the Company if FIS makes a written demand, describing with reasonable particularity the information sought and the purpose for seeking the information, and such information is directly connected to FIS' purpose. Accordingly, FIS hereby demands to inspect and copy:



- Records evidencing FIS' current ownership interest in S.U.R. LLC;
- Communications between the Company and Parmenia regarding FIS;
- Any documents received from or sent to Parmenia from 2011 to the present;
- Records evidencing the Company's payment of distributions to Parmenia from 2011 to the present;
- Records evidencing the Company's payments (other than distributions) to Parmenia from 2011 to the present;
- The Company's federal, state, and local income tax returns from 2010 to the present;
- Records of the Company's bank accounts, bank records, and credit card accounts, if any, from 2010 to the present;
- Records evidencing the Company's compensation of any officers and directors from 2010 to the present; and
- Records evidencing the Company's current assets and liabilities.

This demand is being made to enable FIS (1) to determine its ownership interest in S.U.R. LLC; (2) to investigate mismanagement, waste, or wrongdoing in connection with S.U.R. LLC's payment and handling of distributions and other payments to FIS; (3) to determine whether S.U.R. LLC's officers and directors have properly discharged their fiduciary duties to FIS; and (4) to take appropriate action if any wrongdoing is revealed.

In Florida, ascertaining the value of a person's ownership interest in a company and determining "whether or not the affairs of the corporation are being properly administered by the corporate officers in charge" have been recognized as proper purposes for seeking books and records. *State ex rel. Fussell v. McLendon*, 109 So. 2d 783, 786 (Fla. 3d DCA 1959). The information sought above is directly connected to FIS' stated purposes.

Time for Compliance

Pursuant to § 605.0410(3)(c), Fla. Stat., you have 10 days after receipt of this letter to inform FIS of the information that the Company will provide in response to this demand and when and where the Company will provide the information or, if the Company declines to provide any demanded information, the Company's reasons for declining. You can contact us at:

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eduardo@ayalalawpa.com

Eduardo A. Maura, Esq.
Luis Quesada, Esq.
Pamela Ferretjans, Esq.

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Miami, FL 33145
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(F) 305-503-7206
www.lawayala.com



Consequences of Non-Compliance

Be advised that if S.U.R. LLC does not allow FIS to inspect and copy the records requested, a court of competent jurisdiction “may summarily order inspection and copying of the records demanded, at the limited liability company’s expense.” § 605.0411(1), Fla. Stat. In such a case, the court “shall also order the limited liability company to pay the costs, including reasonable attorney fees,” incurred by FIS in enforcing its rights. § 605.0411(2), Fla. Stat.

We intend to pursue all recourses available to us to obtain the documents requested and hope to resolve this matter without judicial intervention.

Sincerely,

A handwritten signature in black ink, appearing to read "Eduardo A. Maura", is written over a horizontal line.

Eduardo A. Maura, Esq.



April 9, 2021

Eduardo A. Maura, Esq.
Ayala Law, P.A.
2490 Coral Way, Suite 401
Miami, Florida 33145

VIA E-MAIL

RE: Request for the Inspection of Books and Records of S.U.R., LLC Pursuant to Section 605.0410 of the Florida Statutes

Dear Mr. Maura:

We are in receipt of your letter dated March 24, 2021 requesting to inspect the books and records of S.U.R., LLC on behalf of Fondo de Inversión Stella (FIS). In particular, you have requested to inspect and copy numerous records spanning in some cases from 2010 to the present pursuant to sections 605.0410(3)(b)1 and 605.0410(3)(b)2 of the Florida Statutes. S.U.R., LLC, however, cannot permit the requested inspection.

As an initial matter, FIS is not a member of S.U.R., LLC and has not been a member since at the latest 2015 when its earlier transfer of its membership interest to Parmenia, LLC was ratified. Thus, FIS is not entitled to inspect the books and records of S.U.R., LLC. Indeed, the statute makes plain that only members have the right to seek such materials. Fla. Stat. § 605.0410(3)(b) (providing that “*a member* may inspect and copy” certain records) (emphasis added). And, of course, unless the membership interest is conclusively established, the party requesting to inspect the materials is not entitled to do so. See *Int’l Yacht Group, LLC v. Miami Yacht & Engine Works, LLC*, 83 So. 3d 930, 931 (Fla. 3d DCA 2012) (“Because the trial court overruled the objections and required production of all the documents without first determining if, in fact, Miami Yacht is a member of the Agreement in question, we grant the petition for writ of certiorari in part and remand with instructions for an *in camera* inspection of the documents requested.”); cf. *Duran v. MFM Group, Inc.*, 841 So. 2d 500, 501 (Fla. 3d DCA 2003) (per curiam) (“Duran’s claims against MFM are premised upon his ability to establish his status as a shareholder. Until that status is conclusively established, Duran is not entitled to MFM’s financial information. Since Duran is not entitled to the information until his disputed status as a shareholder has been resolved, there is no departure from the essential requirements of law” (citation omitted)).

EXHIBIT D

Eduardo A. Maura, Esq.

April 9, 2021

Page 2

What is more, S.U.R., LLC is not in a position to make any records available to you at this time even if the statutory conditions had been satisfied as control of FIS is presently the subject of a pending arbitration. Specifically, Value Investments Peru, S.A. (VALINVEST) has initiated arbitration proceedings in Peru against two of the participants in FIS – Asociación Editorial Stella and Instituto de los Hermanos de las Escuelas Cristianas La Salle, seeking an order directing those participants to accept VALINVEST as the administrator of FIS so that it may proceed with the orderly closure of FIS pursuant to a closure agreement. Among the specific issues to be addressed by the arbitrator is the validity of the designation of Erick Iriarte as the liquidator of FIS. The parties involved have all accepted the jurisdiction of the arbitration panel and the matter is proceeding. Thus, until such time as the arbitrator enters his ruling establishing which party has or parties have control of FIS, S.U.R., LLC is not in a position to make any records from the time in which FIS was a member available even if the appropriate request had been made and the statutory conditions been met here. In any event, it can be inferred from the acknowledgment in your letter that FIS already has the books and records requested for the time period in which it was a member (i.e., prior to the transfer to Parmenia, LLC) as you stated, “For the years 2015 to the present, FIS does not have any books or records evidencing income and expenses from S.U.R., LLC.” Letter, dated Mar. 24, 2021, at 2.

Finally, among your stated reasons for seeking such information is that you intend “to take appropriate action if any wrongdoing is observed.” Letter, dated Mar. 24, 2021, at 3. Thus, your overly broad request for documents spanning *over eleven years* amounts to nothing more than an unwarranted and impermissible pre-litigation fishing expedition, especially since FIS is not currently a member of S.U.R., LLC, has not been a member for well over six years, and, thus, has no interest in the ongoing affairs and activities of S.U.R., LLC. Cf. *News-Journal Corp. v. State ex rel. Gore*, 187 So. 271, 272 (Fla. 1939) (“In granting such a privilege, the interest of the one seeking it must actuate the grant but even then it will not be granted to the detriment of the corporation; neither will it be permitted for a fishing expedition or to satisfy idle curiosity.”); *Omes v. Ultra Enters., Inc.*, 116 So. 3d 633, 635–36 (Fla 3d DCA 2013) (“Pre-filing discovery (to attempt to find or substantiate shareholder claims for a later lawsuit) is not part of the letter or spirit of the records inspection statutes.”); *Oil Conservationists, Inc. v. Gilbert*, 471 So. 2d 650, 653 (Fla. 4th DCA 1985) (“A proper purpose is one that is lawful in character and not contrary to the interest of the corporation. It is one wherein a stockholder seeks information bearing upon the protection of his interest (and/or that of other stockholders), and not satisfaction of curiosity or a general fishing expedition. It is not sufficient merely to allege a proper purpose; rather, in each case, the facts must be examined.”).

Accordingly, for the reasons stated herein, S.U.R., LLC rejects the improper request to inspect its books and records.

Sincerely,

s/Carlos Nunez-Vivas

Carlos Nunez-Vivas

Eduardo A. Maura, Esq.
Luis Quesada, Esq.
Pamela Ferretjans, Esq.

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Miami, FL 33145
(P) 305-570-2208
(F) 305-503-7206
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March 24, 2021

VIA PROCESS SERVER

S.U.R. Corporation, United Systems of Retransmission
c/o BGRS Consulting, LLC
1901 Brickell Ave, PH 4-B
Miami, FL 33129
Att: Lizardo Vargas, CEO

RE: Inspection of Books and Records Pursuant to § 607.1602, Fla. Stat.

Dear Mr. Vargas,

We represent Fondo de Inversión Stella (“FIS”). As you are aware, FIS is a shareholder of S.U.R., Corporation (the “Company”). Pursuant to § 607.1602, Fla. Stat., FIS hereby demands to inspect and copy, during regular business hours at a reasonable location specified by the Company, the books and records of the Company identified below.

Background

In March 2001, Canal SUR agreed to merge with S.U.R. Corporation. Before the merger, Canal SUR was owned by Pacacom Corp., which held 64% of its stock, and Asociación Editorial Stella, which held 36% of its stock. Meanwhile, S.U.R. Corporation was owned in its entirety by Pacacom Corp. After the merger of both companies, S.U.R. Corporation’s stock was redistributed between Pacacom Corp. (85%) and Asociación Editorial Stella (15%). On July 1, 2004, the investment portfolio of Asociación Editorial Stella was transferred to FIS.

On or around May 8, 2009, Mr. Vargas informed FIS that S.U.R. Corporation would change its corporate form to a limited liability company, a “pass-through” entity that does not pay taxes itself; rather, the owners of the company pay taxes on their share of the profits. On December 17, 2009, FIS agreed not to receive advance dividends from S.U.R. Corporation, until the change was completed. On June 24, 2010, FIS was told that S.U.R. Corporation had been dissolved and that a new entity, named S.U.R. LLC had been created.

Despite these representations, FIS has recently learned that S.U.R. Corporation continues to be an active company. Although it has continued to operate, S.U.R. Corporation has not paid dividends to FIS since at least 2009. Because FIS was misled into believing that S.U.R. Corporation had been dissolved and that FIS’ interest in S.U.R. Corporation had been transferred to S.U.R. LLC, it is unclear what ownership interest FIS currently holds in S.U.R. Corporation.

EXHIBIT E



Books and Records Demanded

Pursuant to § 607.1602(1), Fla. Stat., FIS hereby demands to inspect and copy:

- (a) The Company's articles of incorporation, as currently in effect;
- (b) The Company's bylaws, as currently in effect;
- (c) All written communications within the past 3 years to shareholders;
- (d) A list of the names and business street addresses of the Company's current directors and officers; and
- (e) The Company's most recent annual report delivered to the Department of State.

Pursuant to § 607.1602(2), Fla. Stat., FIS is also entitled to inspect and copy any books and records of the Company if FIS' demand is made in good faith and for a proper purpose, it describes with reasonable particularity FIS' purpose and the records FIS desires to inspect, and the records are directly connected with FIS' purpose. Accordingly, FIS hereby demands to inspect and copy:

- Excerpts from minutes of any meeting of, or records of any actions taken without a meeting by, the Company's board of directors and board committees of the Company;
- The financial statements of the Company for its last 3 fiscal years and any audit or other reports with respect to such financial statements;
- Accounting records of the Company;
- A record of shareholders, showing the address of, and the number and class or series of shares held by, each shareholder;
- Any other records evidencing FIS' current ownership interest in the Company;
- Communications between the Company and any third-party regarding FIS;
- Any documents received from or sent to FIS from 2004 to the present;
- Records evidencing the Company's payment of dividends to FIS from 2004 to the present;
- Records evidencing the Company's payments (other than dividends) to FIS from 2004 to the present;
- The Company's federal, state, and local income tax returns from 2004 to the present;
- Records of the Company's bank accounts, bank records, and credit card accounts, if any, from 2004 to the present;
- Records evidencing the Company's compensation of any officers and directors from 2004 to the present; and
- Records evidencing the Company's current assets and liabilities.

This demand is being made to enable FIS (1) to determine its ownership interest in S.U.R. Corporation; (2) to investigate mismanagement, waste, or wrongdoing in connection with S.U.R. Corporation's payment and handling of dividends and other payments to FIS; (3) to determine whether

Eduardo A. Maura, Esq.
Luis Quesada, Esq.
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S.U.R. Corporation’s officers and directors have properly discharged their fiduciary duties to FIS; and (4) to take appropriate action if any wrongdoing is revealed.

In Florida, ascertaining the value of a person’s ownership interest in a company and determining “whether or not the affairs of the corporation are being properly administered by the corporate officers in charge” have been recognized as proper purposes for seeking books and records. *State ex rel. Fussell v. McLendon*, 109 So. 2d 783, 786 (Fla. 3d DCA 1959). The information sought above is directly connected to FIS’ stated purposes.

Time for Compliance

Pursuant to § 607.1602, Fla. Stat., you have 5 days after receipt of this letter to inform FIS of the information that the Company will provide in response to this demand and when and where the Company will provide the information or, if the Company declines to provide any demanded information, the Company’s reasons for declining. You can contact us at:

Ayala Law, P.A.
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(305) 570-2208
eduardo@ayalalawpa.com

Consequences of Non-Compliance

Be advised that if S.U.R. Corporation does not allow FIS to inspect and copy the records requested, a court of competent jurisdiction “may summarily order inspection and copying of the records demanded at the corporation’s expense.” § 607.1604(1), Fla. Stat. In such a case, the court “shall also order the corporation to pay the shareholder’s expenses, including reasonable attorney fees,” incurred by FIS in enforcing its rights. *Id.*

We intend to pursue all recourses available to us to obtain the documents requested and hope to resolve this matter without judicial intervention.

Sincerely,

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

Eduardo A. Maura, Esq.



April 9, 2021

Eduardo A. Maura, Esq.
Ayala Law, P.A.
2490 Coral Way, Suite 401
Miami, Florida 33145

VIA E-MAIL

RE: Request for the Inspection of Books and Records of S.U.R. Corp. Pursuant to Section 607.1602 of the Florida Statutes

Dear Mr. Maura:

We are in receipt of your letter dated March 24, 2021 requesting to inspect the books and records of S.U.R. Corp. on behalf of Fondo de Inversión Stella (FIS). In particular, you have requested to inspect and copy numerous records spanning in some cases from 2004 to the present pursuant to sections 607.1602(1) and 607.1602(2) of the Florida Statutes. S.U.R. Corp., however, cannot permit the requested inspection.

As an initial matter, FIS is not a shareholder in S.U.R. Corp. and, thus, is not entitled to inspect the books and records of S.U.R. Corp. Indeed, the statute makes plain that only shareholders have the right to seek such materials. Fla. Stat. § 607.1602(1) (providing that “*A shareholder* of a corporation is entitled to inspect and copy” certain records) (emphasis added). Further, the statute makes plain that the request must be made for a proper purpose, which is defined as “a purpose *reasonably related to such person’s interest as a shareholder,*” *id.* § 607.1602(11), thereby establishing that only one who has an interest “as a shareholder” can establish it has a proper purpose in seeking such records. And, of course, unless shareholder status is conclusively established, the party requesting to inspect the materials is not entitled to do so. *Duran v. MFM Group, Inc.*, 841 So. 2d 500, 501 (Fla. 3d DCA 2003) (per curiam) (“Duran’s claims against MFM are premised upon his ability to establish his status as a shareholder. Until that status is conclusively established, Duran is not entitled to MFM’s financial information. Since Duran is not entitled to the information until his disputed status as a shareholder has been resolved, there is no departure from the essential requirements of law” (citation omitted).); *cf. Int’l Yacht Group, LLC v. Miami Yacht & Engine Works, LLC*, 83 So. 3d 930, 931 (Fla. 3d DCA 2012) (“Because the trial court overruled the objections and required production of all the documents without first determining if, in fact, Miami Yacht is a member of the Agreement in question, we grant the petition for writ of certiorari in part and remand with instructions for an *in camera* inspection of the documents requested.”).

EXHIBIT F

Eduardo A. Maura, Esq.

April 9, 2021

Page 2

What is more, unlike section 605.0410, section 607.1602 does not provide for the inspection of books and records by a former shareholder. Even if it did (which it does not), S.U.R. Corp. would not be in a position to make any records available to you at this time as control of FIS is presently the subject of a pending arbitration. Specifically, Value Investments Peru, S.A. (VALINVEST) has initiated arbitration proceedings in Peru against two of the participants in FIS – Asociación Editorial Stella and Instituto de los Hermanos de las Escuelas Cristianas La Salle, seeking an order directing those participants to accept VALINVEST as the administrator of FIS so that it may proceed with the orderly closure of FIS pursuant to a closure agreement. Among the specific issues to be addressed by the arbitrator is the validity of the designation of Erick Iriarte as the liquidator of FIS. The parties involved have all accepted the jurisdiction of the arbitration panel and the matter is proceeding. Thus, even if the applicable statute provided any rights to former shareholders, S.U.R. Corp. could not make any records from the time in which FIS was a shareholder available until such time as the arbitrator enters his ruling establishing which party has or parties have control of FIS.

Finally, among your stated reasons for seeking such information is that you intend “to take appropriate action if any wrongdoing is observed.” Letter, dated Mar. 24, 2021, at 3. In fact, you have alleged in your letter that “FIS was misled into believing that S.U.R. Corporation had been dissolved and that FIS’[s] interest in S.U.R. Corporation had been transferred to S.U.R., LLC.” *Id.* at 1. Thus, your overly broad request for documents spanning *over sixteen years* amounts to nothing more than an unwarranted and impermissible pre-litigation fishing expedition, especially since FIS is not currently a shareholder in S.U.R. Corp. and, therefore, has no interest in the ongoing affairs and activities of S.U.R. Corp. *Omes v. Ultra Enters., Inc.*, 116 So. 3d 633, 635–36 (Fla 3d DCA 2013) (“Pre-filing discovery (to attempt to find or substantiate shareholder claims for a later lawsuit) is not part of the letter or spirit of the records inspection statutes.”); *Oil Conservationists, Inc. v. Gilbert*, 471 So. 2d 650, 653 (Fla. 4th DCA 1985) (“A proper purpose is one that is lawful in character and not contrary to the interest of the corporation. It is one wherein a stockholder seeks information bearing upon the protection of his interest (and/or that of other stockholders), and not satisfaction of curiosity or a general fishing expedition. It is not sufficient merely to allege a proper purpose; rather, in each case, the facts must be examined.”); *cf. News-Journal Corp. v. State ex rel. Gore*, 187 So. 271, 272 (Fla. 1939) (“In granting such a privilege, the interest of the one seeking it must actuate the grant but even then it will not be granted to the detriment of the corporation; neither will it be permitted for a fishing expedition or to satisfy idle curiosity.”).

Accordingly, for the reasons stated herein, S.U.R. Corp. rejects the improper request to inspect its books and records.

Sincerely,

s/Carlos Nunez-Vivas

Carlos Nunez-Vivas