

STATE OF INDIANA
IN THE MARION COUNTY SUPERIOR/CIRCUIT COURT

MISCELLANEOUS DOCKET NUMBER _____

IN RE: JAMES S. BLEIER, JR.,
ASHLEY HEINDL,

and

AXIA HOLDINGS, LLC, BERKELEY
ASSET FUND, LLC, DARKO
VENTURES LLC, DARKO
VENTURES LLC-S, MIDWEST
HOLDINGS-INDIANAPOLIS, LLC,

Respondents.

**PETITION TO APPROVE
ASSURANCE OF VOLUNTARY
COMPLIANCE**

The Petitioner, State of Indiana, by Deputy Attorneys General Kelsey McKnight, Timothy Weber, and Chase M. Haller, petitions the Court to approve an Assurance of Voluntary Compliance (“Assurance”) between the parties pursuant to Indiana Code § 24-5-0.5-7.

The parties agree to enter into the Assurance without any adjudication of fact or law. The Assurance is attached and marked as Exhibit A.

WHEREFORE, the Petitioner requests the Court approve the Assurance of Voluntary Compliance between the parties and for all other just and proper relief.

Respectfully submitted,

THE OFFICE OF THE INDIANA
ATTORNEY GENERAL



By: _____

Chase M. Haller
Deputy Attorney General
Section Chief | Homeowner Protection Unit
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Indiana Government Center South
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Indianapolis, IN 46204
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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2023, a copy of the foregoing “Joint Appearance of Counsel” was filed electronically through the Indiana E-Filing System. The same day, the following e-filing users were served electronically by E-service using the IEFS:

Derek Peterson – derekpetersonlaw@gmail.com

Counsel for Respondents James S. Bleier, Jr., Axia Holdings, LLC, Berkeley Asset Fund, LLC, Darko Ventures, LLC, Darko Ventures LLC-S, Midwest Holdings-Indianapolis, LLC

David McNamar

Counsel for Respondent Ashley Heindl

EXHIBIT A

STATE OF INDIANA
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VENTURES LLC-S, MIDWEST
HOLDINGS-INDIANAPOLIS, LLC,

Respondents.

**ASSURANCE OF VOLUNTARY
COMPLIANCE**

The State of Indiana, through the Office of the Indiana Attorney General Consumer Protection Division and its Homeowner Protection Unit, by Deputy Attorneys General Kelsey McKnight and Chase M. Haller, and the Respondents, James S. Bleier, Jr., Ashley Heindl, Axia Holdings, LLC, Darko Ventures LLC, Darko Ventures LLC-S, Midwest Holdings-Indianapolis, LLC, (collectively, “Respondents”) enter into an Assurance of Voluntary Compliance (“Assurance”) pursuant to Indiana Code § 24-5-0.5-7. In support thereof, the parties to this Assurance state as follows:

1. The State of Indiana initiated an investigation of certain acts and practices of the Respondents named in the caption as a result of consumer complaints filed with the Office of the Indiana Attorney General Consumer Protection Division and investigated by the Homeowner Protection Unit.

2. Pursuant to Ind. Code § 24-5-0.5-7(b), this Assurance shall not be considered an admission of a deceptive act for any purpose. Each of the Respondents explicitly and expressly deny any violations of law.

3. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties. Pursuant to Ind. Code § 24-5-0.5-7, violation of the terms of this assurance constitutes prima facie evidence of a deceptive act and matters addressed in this Assurance may be reopened in the future for further proceedings in the public interest, at the Attorney General's discretion.

I. PARTIES

4. The Attorney General is authorized to enter into and file this Assurance with the Marion County Superior Court pursuant to Indiana Code § 24-5-0.5-7.

5. The Respondent James S. Bleier, Jr. ("Bleier") is a natural person and Florida resident currently residing at 7750 Okeechobee Boulevard, Suite #4-1167, West Palm Beach, FL 33411,

6. The Respondent Ashley Heindl is a natural person and Indiana resident currently residing at 204 Myers Road, Danville, IN 46122.

7. The Respondent, Axia Holdings, LLC ("Axia") is a domestic limited liability company organized, formed, and registered in Indiana with a principal office address of 8437 Bell Oaks Drive, Newburgh, IN 47630.

8. The Respondent, Berkeley Asset Fund, LLC (“Berkeley”) is a domestic limited liability company organized, formed, and registered in Indiana with a principal office address of 7190 West Sunset Boulevard, #7C, Los Angeles, California 90046.

9. The Respondent, Midwest Holdings-Indianapolis (“Midwest”) is a domestic limited liability company organized, formed, and registered in Indiana. It has a principal office address of 382 North East 191st Street, Number 61924, Miami, Florida 93065.

10. The Respondent, Darko Ventures, LLC (“Darko”) is a domestic limited liability company organized, formed, and registered in Indiana with a principal office address of 8437 Bell Oaks Drive, Newburgh, IN 47630.

11. The Respondent, Darko Ventures, LLC-S (“Darko Master”) is a domestic master limited liability company organized, formed, and registered in Indiana with a principal office address of 8437 Bell Oaks Drive, Newburgh, IN 47630.

12. Collectively, these parties are referred to in this Assurance as “Respondents.”

II. AGREEMENT

13. The terms of this Assurance apply to and are binding upon Respondents individually as well as all employees, agents, representatives, successors, and assigns of every Respondent named herein unless otherwise specified.

14. The Parties enter into this agreement voluntarily, all having the opportunity to consult with counsel.

A. TERMS APPLICABLE TO ALL RESPONDENTS

15. Respondents shall refrain from committing any unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, in violation of Ind. Code § 24-5-0.5-3(a). Respondents shall likewise refrain from committing deceptive acts in connection with real estate transactions as part of a scheme or artifice to defraud Indiana consumers.

16. Respondents shall refrain from committing deceptive acts in connection with real estate transactions or mortgage transactions in violation of Ind. Code § 24-9-7.

17. Respondents shall refrain from the unlicensed practice of real estate in violation of Ind. Code § 24-5-0.5, Ind. Code § 25-34.1-3-2, and Ind. Code § 24-9, *et seq.*

B. TERMS APPLICABLE TO RESPONDENT JAMES S. BLEIER, JR.

18. Respondent Bleier shall, within 10 (ten) days of full execution of this Assurance in all its counterparts, petition the Indiana Real Estate Commission for the voluntary surrender of his Indiana Real Estate Broker License, in accordance with Ind. Code § 25-1-11-17, herein ("Surrender), upon condition that Respondent Bleier shall not apply for a new broker license or seek to withdraw his Surrender for ten (10) years.

19. The period of ten (10) years shall commence from the recorded date of the Surrender.

20. The Parties agree that the Surrender shall not constitute an admission of any wrongdoing, any violation(s) of Indiana Law, and that no other conditions of the Surrender, aside from what is provided for in this Assurance shall be applicable.

21. The State of Indiana, pursuant to Ind. Code § 25-1-11-17(b)(2), shall not object or otherwise oppose the Surrender.

22. In the event that the Indiana Real Estate Commission denies the Surrender, such denial shall not constitute a breach of this Assurance. However, the Parties shall seek an alternative resolution and/or modify this Assurance to reflect an alternative resolution.

C. TERMS APPLICABLE TO RESPONDENT ASHLEY HEINDL

23. Respondent Heindl agrees to a seven (7) year prohibition on her ability to seek licensure as a real estate broker in the State of Indiana running from the date of entry of this Assurance.

24. Respondent Heindl agrees that she shall not draft or negotiate any document or instrument used in connection with a real estate transaction¹ unless she is personally a party to the transaction for a period of seven (7) years, running from the date of entry of this Assurance.

D. TERMS APPLICABLE TO COMPANY RESPONDENTS

25. Respondents Axia, Berkeley, Darko, Darko Master (including all related Series LLCs), and Midwest shall, within 180 days of entry of this Assurance,

¹ As that term is defined in Ind. Code § 24-9-3-7(b)

file Articles of Dissolution with the Indiana Secretary of State pursuant to Ind. Code § 23-1-45, et. seq. Once completed, Respondents shall forward Certificates of Dissolution to counsel for the State of Indiana.

26. Respondent Companies shall be entitled to carry on to conclusion any pending litigation in which they are a party prior to their filing Articles of Dissolution, exempting them from the 180-day compliance period until the litigation is concluded to judgment. Articles of Dissolution would then be filed within sixty (60) days following the conclusion of all pending litigation.

E. RESOLUTION OF INDIVIDUAL CONSUMER COMPLAINTS

27. Pursuant to Ind. Code § 24-5-0.5-7(a), Respondent Berkeley Asset Fund LLC by stipulation with the State of Indiana have agreed to voluntarily remit payment in the collective amount of Fifty-Five Thousand Dollars (\$55,000.00) to be held in escrow by the State of Indiana, pending the distribution of said funds to certain individuals at the discretion of the State of Indiana.

a. The remission of payment by Respondent Berkeley Asset Fund LLC shall be subject to the following specific terms:

i. Respondent Berkeley Asset Fund LLC shall remit Fifty-Five Thousand Dollars (\$55,000.00), within fifteen 15 business days following the full-execution of this Assurance. Payment shall be made by certified check or money order and made payable to an account directed by the State of Indiana.

28. Respondents shall be jointly and severally liable for the payment of Restitution, with the exception of Respondent Ashley Heindl, if full payment is not made by Respondents and delivered to the State of Indiana within fifteen (15) business days of full execution of this Assurance, the total agreed amount paid may be reduced to a civil judgment.

29. Payment shall be promptly distributed by the State of Indiana to previously specified consumers once a Court accepts and enters this Assurance.

30. Respondents shall be entitled to an offset and credit from the total consumer payments payable to the Office of the Indiana Attorney General pursuant to Paragraph 27(A)(i)-(iii) on a per capita basis under the following conditions:

a. In the event that any of the above-identified Respondents, subject to this Assurance, enters into a written agreement resolving private civil litigation between any Respondent(s) and a previously identified consumer(s), with payment made to the previously identified consumer(s) within fifteen (15) business days (the “settlement credit period”), from the full-execution of this Assurance, all Respondents shall receive a dollar-for-dollar set-off in the exact amount, plus a credit in the amount of what would otherwise be the remaining balance previously designated for that specific consumer.

i. By way of example only, if “Respondent A” settles with “Consumer A,” who under this Assurance would otherwise receive ten dollars (\$10.00) for seven dollars (\$7.00),

“Respondent A’ would receive a set-off of seven dollars (\$7.00), plus an additional credit of three dollars (\$3.00), thus satisfying the balance attributable to “Consumer A.”

b. As further condition to receive the set-off and credit, the following additional terms apply:

- i. Credit shall only be given for settlement proceeds paid to a particular consumer identified herein. Under no circumstances shall attorney’s fees, penalties, or other costs or payments be entitled to credit under this Assurance.
- ii. In order to obtain a credit to offset the payment owed to the Office of the Indiana Attorney General, Respondent(s) or their counsel must forward a written Request for Settlement credit via electronic mail within the fifteen (15) day settlement credit period that includes at least the following: a.) a copy of any fully executed settlement agreement with a Respondent and the listed consumer; b.) proof of payment pursuant to that settlement.
- iii. In addition to the foregoing, under no circumstances shall Respondents be entitled to credit to offset payment due to the Office of the Indiana Attorney General if any settlement agreement with a listed consumer contains a non-cooperation or nondisclosure clause that could be reasonably interpreted to

prevent their disclosure of facts, evidence, or testimony in connection with an official investigation or legal proceeding.

F. ADDITIONAL PROVISIONS

31. Provided Respondents execute and fully comply with the terms of this Assurance, the State of Indiana – Office of the Indiana Attorney General, by its Licensing Enforcement and Homeowner Protection Unit, herein (“Unit”), shall close and forgo investigation and prosecution of any and all remaining consumer complaints, and/or claims currently known or that may have been available to the Unit as to each Respondent as of the date of full execution of this Assurance, and their principal(s) and/or manager(s).

32. Respondents shall not represent that the Office of the Attorney General approves or endorses Respondent(s) past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

33. The Parties agree that the Court in which this Assurance is filed shall have jurisdiction over this matter for a period of two (2) years from the date this Assurance is filed (the “Compliance Period”) in order to ensure compliance and to interpret this Assurance in the event of a dispute.

34. Following expiration of the settlement credit period, the Office of the Attorney General shall file this Assurance with the Marion County Superior Court and petition the Court to approve this Assurance, as required by Ind. Code § 24-5-0.5-7(a).

35. The Court's approval of this Assurance shall not act as a bar to any private right of action.

G. TAX DISCLOSURES

36. For the purposes of 26 U.S.C. § 162(f) and its associated regulations, the settlement payment made by Respondents shall be considered by the State of Indiana as restitution, remediation, or cost of compliance with the law. Specifically, the State of Indiana identifies the amounts paid under Section E as restitution for damage or harm which may be caused by the potential violation of Ind. Code § 24-5-0.5-1 or Ind. Code § 24-9-7, *et seq.*

37. State of Indiana agrees that, in accordance with 26 U.S.C. § 6050X and its associated regulations, State of Indiana shall furnish a written statement or a copy of Form 1098-F to Midwest Holdings - Indianapolis LLC on or before January 31, 2024 and State of Indiana shall file an information return with the Internal Revenue Service utilizing Form 1098-F or any successor form. For the purpose of this filing, Respondents designate the following entity as the payer:

Midwest Holdings - Indianapolis LLC

7750 Okeechobee Boulevard, Suite #4-1167

West Palm Beach, FL 33411

20-5216165

38. State of Indiana agrees to cooperate with any questions or requests for a copy of this settlement agreement or other documents made by the Internal Revenue Service, and State of Indiana agrees to notify Respondents as soon as practicable of any such requests made by the Internal Revenue Service.

39. State of Indiana takes no position on whether the Internal Revenue Service will allow any deduction by Respondents of any amounts paid under this settlement agreement. Respondents agree that they are fully responsible for the payment of all applicable taxes, including in the event any deductions for amounts paid under this settlement agreement are disallowed, as well as any fines or penalties imposed by the Internal Revenue Service. Respondents agrees that they shall comply fully with this settlement agreement and not seek any modification regardless of the treatment by the Internal Revenue Service of amounts paid.

DATED this 10th day of March, 2023.

STATE OF INDIANA

THE OFFICE OF THE INDIANA
ATTORNEY GENERAL

By: 
Chase M. Haller
Deputy Attorney General
Section Chief, HPU
Attorney Number 29944-49

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Chase.Haller[atg.in.gov]

RESPONDENTS

JAMES S. BLEIR, JR.


Signature
3/2/23
Dated

ASHLEY HEINDL


Signature
3/2/23
Dated

AXIA HOLDINGS, LLC

By: 
Name: James Bleier
Title: Authorized Signatory
Date: 3/2/23

BERKELEY ASSET FUND, LLC

By: 
Name: Phil Duffield
Title: Authorized Signatory
Date: 3/2/23

DARKO VENTURES, LLC

By: 

Name: Katherine Bleier

Title: Authorized Signatory

Date: 3/2/23

DARKO VENTURES LLC-S

By: *Katherine Bleier*

Name: Katherine Bleier

Title: Authorized Signatory

Date: 3/2/23

**MIDWEST
HOLDINGS-INDIANAPOLIS LLC**

By: *Katherine Bleier*

Name: Katherine Bleier

Title: Authorized Signatory

Date: 3/2/23