

PIRCHER, NICHOLS & MEEKS

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April 3, 2002

Mr. Gary Gevisser  
Gevisser Group  
327 Parrish Lane  
Del Mar, California 92014

Re: Wetherly Capital Group

Dear Mr. Gevisser:

Our firm represents Wetherly Capital Group, LLC ("Wetherly"). I am writing to you at the request of Dan Weinstein because Wetherly is in receipt of two (2) billing invoices from the Gevisser Group for unspecified services. One of the billing invoices refers to a retainer fee in the amount of \$6,250 for January 2002, while the other refers to a retainer fee in the amount of \$3,125 for the February 15<sup>th</sup>.

As you know, Wetherly has not entered into any agreement or other arrangement with the Gevisser Group or you. Although Wetherly and the Gevisser Group did discuss entering into a consulting agreement, Wetherly and the Gevisser Group were unable to reach agreement upon, and consummate, the consulting agreement because the Gevisser Group objected to the confidentiality provisions of the proposed consulting agreement. Based upon that objection, the Gevisser Group refused to enter into the consulting agreement. Despite the fact that there was never any agreement between Wetherly and the Gevisser Group, and out of an abundance of caution, on January 15, 2002, Wetherly delivered a notice of termination to the Gevisser Group of what for short hand purposes will be referred to as the unconsummated consulting agreement.

As of the date of this letter, Wetherly has paid the Gevisser Group the sum of \$18,750.00 under the unconsummated consulting agreement. Wetherly has not yet requested that the Gevisser Group refund these payments. Because the Gevisser group is now apparently contending that it is entitled to receive additional sums from Wetherly under the unconsummated consulting agreement and that the sum of \$9,375 remains unpaid, I am writing to notify you on Wetherly's behalf that Wetherly reserves the right to require that the Gevisser Group refund any prior payments made by

Mr. Gary Gevisser  
April 3, 2002  
Page 2

Wetherly, and does not owe any amount or amounts whatsoever to the Gevisser Group, whether under the unconsummated consulting agreement or otherwise.

However, notwithstanding that Wetherly and the Gevisser Group are not parties to any agreement, Wetherly will agree to pay the Gevisser Group the sum of \$9,375 upon the execution and delivery of a mutual settlement and release agreement that releases any and all claims that Wetherly, on the one hand, and the Gevisser Group and you, on the other hand, may have against each other or against each other's respective employees, owners and affiliates. In that connection, I am enclosing four (4) originals of a mutual settlement and release agreement that is acceptable to Wetherly.

Please execute each of the enclosed counterpart originals of the mutual settlement and release agreement on the behalf of the Gevisser Group and yourself and return all four (4) executed counterpart originals to my attention. Upon my receipt of the executed documents, I will arrange for execution of the counterpart originals of the mutual settlement and release agreements by Wetherly, and upon receipt by me will return two (2) fully-executed counterpart originals of the standard mutual settlement to you together with a check from Wetherly made payable to the Gevisser Group in the amount of \$9,375.

This letter shall also serve as notice to you that until I am in receipt of receipt of the counterpart originals of the mutual settlement and release agreements executed by the Gevisser Group, Wetherly reserves all rights and remedies. Please do not hesitate to call me if you have any questions regarding this letter or the enclosed documents.

Sincerely yours,



William H. Jackson

Enclosures



TO: DAN WEINSTEIN, JOE CAMPOS, ROD SMITH, GARY GEVISSER  
FROM: VICKY SCHIFF  
SUBJECT: WATER FUND  
DATE: 2/8/2002  
CC:

TH, GARY GEVISSER  
 ROD SMITH  
 HOME-909-981 7808  
 WORK-909-625 8003  
 CELL-909-2015603  
 HIS WIFE IS LISA = BOTH  
 1299 & HIS WIFE ARE  
 100%  
 TRUST WORTHY

TRUST No 2

1. From Summer 2001 to present, ongoing discussion with staff and select board members at CALPERS regarding the viability of a water fund investment. To date, Wetherly has received positive feedback from all parties.
2. In late December, a meeting with Governor Davis and USFilter Executives was arranged. USFilter briefed Governor Davis on USFilter's new corporate structure, technical capabilities and concerns regarding issues such as the MWD, IID and other water districts as well as a general discussion on the proposed IID/SDCWA water transfer as it relates to and impacts the Salton Sea. Of interest to CAP is that Governor Davis made it clear he was reluctant to engage in the IID/Salton Sea issue, thus a strong signal to USF that they would have to assume a leadership role in Imperial Valley or let events outside USF control shape what Western Farms will have to deal with over the next 12 months +.
3. Attended a private briefing on "Mexico Border Infrastructure" hosted by Baja California Governor Elourdy, Presidential Commissioner for Border Affairs Ernesto Ruffo and attended by special guest President Vicente Fox. The briefing focused on Mexico's strategic interests along the northern border including water and wastewater infrastructure projects being proposed 2002-2005. The priorities outlined are: first, the Mexican aqueduct project (Colorado River diversion south of US border) linking the river with Mexicali and Tijuana, with a projected timeline of 5-7 year build-out and a \$2 billion price tag. Second, the construction of water reclamation facilities in Tijuana and Mexicali. Last, continued research, development and financing of desalination facilities along the coastal zone of Baja California.
4. January 11<sup>TH</sup> (confirm date) an exploratory meeting was held including Dan Weinstein, Vicky Schiff, Andy Siedel and Steve Stanzac (Spelling?) at US Filter to explore several ideas related to financing of water related businesses including the following:
  - a. Creation of a "Fund" whereas US Filter of a related entity will be a limited partner. The pipeline of the fund may consist of a variety of water related strategies including:

CHUCK URBANO - member investment CALPERS  
BOB CARLSON - vice pres in RBIC. - LUND  
ON CALIF STUFF? ————— 7500<sup>THURSDAY</sup>

- i. Transfer of water rights for the Western Farm asset including a sale of the Western Farm asset into the fund at a value to be agreed on at a later date.
  - ii. Financing of water treatment projects
  - iii. Other strategies as determined by fund
- b. Possible utilization of back office support of fund by USFilter
- c. USFilter to be a potential source of further pipeline transactions to review under the fund

Rose Institute Conference on Water; January 25, 2002. JMC arranged for BECC Commissioner Denise Ducheny as well as Bajagua Project Manager David Sclesinger to speak on California-Mexico border issues as well as on the merits of the Bajagua Project, specifically on how the private sector can collaborate with the public sector to help solve some of the regions more pressing water supply and water treatment problems.

Follow up e-mail from VS to Andy Seidel detailing a standardized fund structure on Jan 25<sup>th</sup>.

January 28-29, 2002: Private meetings with key California Tribal leaders in San Diego on water issues related to the Colorado River, the Salton Sea and the IID/SDCWA water transfer during CNIGA Summit.

A complete "Water 101" briefing package including National Geographic materials, Water Education Foundation materials, USFilter/ Vivendi Environment promotional materials and a binder from the Rose Institute titled "Southern California's Looming Water Challenges" were forwarded to Mike McCook at CALPERS February 1, 2002.



**Confidential and Proprietary**

**February 8, 2002**

**Rod Smith's Activities Regarding  
Development of Business Opportunity**

1. Participation in Meeting of October 23, 2001 (Smith, Van Gundy, Weinstein, Shiff, Campos, Gevisser)
  - a. Provided background economic, political, and policy background on Imperial Valley asset
  - b. Shared materials on potential valuation of acquisition
  - c. Discussed potential valuation gap facing negotiations with Vivendi
  - d. Presented alternative business strategies/deal structures regarding overcoming potential valuation gaps
2. Development of Business Plan, Business Strategy, and Financing Structures (in collaboration with Gevisser pursuant to confidential discussions)
  - a. Definition of Business
  - b. Refinement of Business Strategy
  - c. Identification of skill sets and individuals
  - d. Development of financial structures
  - e. Asset acquisition strategy
  - f. Roll-Up of Agricultural Technology
3. Participation in Follow-up Meeting Dec (?) 2001 (Smith, Weinstein, Campos)
  - a. Discussion of promoter issue
  - b. Discussion of concept of "CAP" as entity for vehicle of funding
  - c. Receipt of materials from Weinstein concerning preferred "powerpoint" presentation of funding request
  - d. Discussion of follow-up meetings regarding potential promoters
4. Development and Participation in Governor Briefing (in collaboration with Campos and Weinstein)
  - a. Preparation of White Paper on California's Colorado River Challenges
  - b. Preparation of talking points regarding need for proactive action by US Filter
  - c. Face-to-face meeting with Governor regarding Colorado River
  - d. Follow-up conversations with Weinstein/Campos regarding next steps in light of meetings with Governor

8/29/2001

1. NATURE of the investments
2. POLITICAL motivation.

TYPE:	Private Equity
ASSIGNMENT 1:	\$200M
ASSIGNMENT 2:	\$300M
TARGET FUND(S):	CALSTRS, NY COMMON
ALLOCATION:	
EXECUTED AGREEMENT:	No
START DATE:	
COMMENTS:	CLOSED \$200M 5-14-01,
FFF:	1 Point Paid over 8 quarters

CLOSED \$200M 5-14-01, Working on Assignment 2. Milken Institute has recommended that STRS allocate \$500M to underserved areas  
1 Point Paid over 8 quarters. First payment due in September. 1/2 Point on NY Common Per Ron

**NEXT STEP:** CALSTRS ALLOCATION WITH BOARD. STAFF IN OPPOSITION TO NEW \$500M ALLOCATION

ACTION MONTH (#)	ACTION	Identify Funds/Endowments to Target				Complete Questionnaire						
	Determine Strategy of Company	Create Business Plan/Presentation	PPM		Meetings with Funds			Funding				
	1	2	3	4	5	6	7	8	9	10	11	12
Assignment 1	MONTH	Nov-00	Dec-00	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	Jul-01	Aug-01	
Assignment 2		Aug-01	Sep-01	Oct-01	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02
Payment Schedule	250,000 October 2001	250,000 June 2002	250,000 April 2003									
	250,000 January 2002	250,000 September 2002	250,000 July 2003									
	250,000 April 2002	250,000 January 2003										

**PRIVATE EQUITY / ALTERNATIVE INVESTMENTS**  
8/29/2001

CLIENT: Heckman Water Fund  
 STATUS: IN DEVELOPMENT  
 CONTACT(S): Richard Heckman  
 PHONE:  
 FAX:  
 E-MAIL:  
 ADDRESS:

WETHERLY CONTACT: Dan Weinstein  
 TYPE: Private Equity

ASSIGNMENT:  
 TARGET FUND(S):  
 ALLOCATION:  
 EXECUTED AGREEMENT:  
 START DATE:  
 COMMENTS:  
 FEE:

NEXT STEP: DETERMINE STRATEGY

ACTION ACTION MONTH (#) MONTH	Identify Funds/Endowments to Target				Complete Questionnaire		Funding				
	1	2	3	4	5	6	7	8	9	10	11
	Determine Strategy of Company	Create Business Plan/Presentation	PPM		Meetings with Funds						
	Sep-01	Oct-01	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02	Jul-02

## 8/29/2001

WETHERLY CONTACT: Julio Ramirez

FEE: 1 Point

NEXT STEP: JULIO TO MEET WITH NY COMMON

ACTION	Identify Funds/Endowments to Target				Complete Questionnaire						
ACTION	Determine Strategy of Company	Create Business Plan/Presentation	PPM		Meetings with Funds			Funding			
MONTH (#)	1	2	3	4	5	6	7	8	9	10	11
MONTH	Aug-01	Sep-01	Oct-01	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02



**REAL ESTATE**  
**8/29/2001**

CLIENT: W.E. Realty Fund  
 STATUS: **IN DEVELOPMENT**

CONTACT(S): Jim Worms  
 PHONE:  
 FAX:  
 E-MAIL:  
 ADDRESS: 10990 Wilshire Blvd., Ste. 500  
 Los Angeles, CA 90024

Fred Gortner  
 (310) 996-8762  
 (310) 575-4558  
[fgortner@wesandsons.com](mailto:fgortner@wesandsons.com)

WETHERLY CONTACT: Vicky Schiff

TYPE:  
 ASSIGNMENT:  
 TARGET FUND(S):  
 ALLOCATION:  
 EXECUTED AGREEMENT:  
 START DATE:  
 COMMENTS:

Jan-02

FEE: 1 point jointly with Susan Barlow

NEXT STEP: NA

ACTION	Identify Funds/Endowments to Target				Complete Questionnaire			
ACTION	Determine Strategy of Company	Create Business Plan/Presentation	PPM		Meetings with Funds			Funding
MONTH (#)	1	2	3	4	5	6	7	8
MONTH	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02	Jul-02	Aug-02

September 17, 2001

Mr. Gary Gevisser  
327 Parrish Lane  
Del Mar, CA 92014

RE: Wetherly Capital Consulting

The following outlines the terms of a consulting relationship between Wetherly Capital Group, LLC, a California limited liability Consultant ("Wetherly") and Gevisser Group ("Consultant").

1. Term: Month-to-Month.
2. Termination Right by Wetherly: Wetherly shall have the right to terminate this agreement at any time with 30 days written notice.
3. Consulting Fee: \$6,250 per month paid bi-monthly with receipt of Consultant invoice.
4. Start Date: October 1, 2001
5. Monthly Consulting Fee Assignments Sourced by Consultant: Consultant shall be paid 15% of consulting fees paid by 3<sup>rd</sup> Party Companies/Funds which Consultant brings into Wetherly Capital Group.
6. Placement Fee Assignments Sourced by Consultant: Consultant shall be paid 15% of placement fees paid by 3<sup>rd</sup> Party Companies/Funds which Consultant brings into Wetherly Capital Group.
7. Placement Fee Assignment Not Sourced by Consultant: Consultant shall be paid 5% of placement fees paid by 3<sup>rd</sup> Party Companies/Funds which Consultant has an active role in reviewing, conducting due diligence and/or managing. The participation by Consultant in each fee assignment not sourced by Consultant shall be pre-approved by Managing Members of Wetherly Capital.
8. Confidentiality. Consultant shall maintain any names and any term sheets, or specific terms of any other proposal or transaction with respect to communication between Wetherly, Consultant and/or any of Wetherly's clients, in strict confidence. The names of parties shall only be disclosed as necessary to those within Wetherly or its



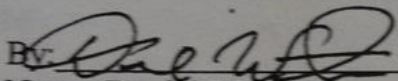
by any indirect or multi-step chain of causation or which is the result of circumstances peculiar to Consultant or to the circumstances of the particular injury or loss.

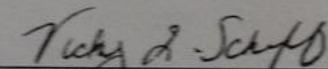
We look forward to working successfully with you.

WETHERLY:

WETHERLY CAPITAL GROUP, LLC,  
a California limited liability Consultant

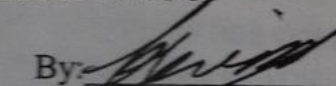
By: DAV CAPITAL LLC,  
a Delaware limited liability Consultant

By:   
Name: Daniel Weinstein  
Title: Managing Member

By:   
Name: Vicky L. Schiff, Trustee of the Vicky L. Schiff Separate Property Trust  
Title: Managing Member

CONSULTANT:

GEVISSER GROUP

By:   
Name: Gary S. Gevisser  
Principal

## RELEASE AGREEMENT

This Release Agreement (this "**Agreement**") is dated for reference purposes and April 3, 2002, by and between Wetherly Capital Group, LLC, a California corporation ("**WCG**"), on the one hand, and Gevisser Group ("**GG Company**") and Gary Gevisser ("**GG Individual**"), and each of them, on the other hand. GG Company and each of them are sometimes collectively referred to in this Agreement as the "**Gevisser Parties**" and the Gevisser Parties are sometimes referred to in this Agreement as the "**Party**" and collectively as the "**Parties**".

## RECITALS

The Gevisser Parties contend that they are entitled to receive the sum of Nine Thousand Seven Hundred and No/100 Dollars (\$9,375.00) from WCG under an existing agreement.

WCG contends that it does not owe any amounts whatsoever to the Gevisser Parties.

WCG, on the one hand, and the Gevisser Parties, on the other hand, now mutually resolve all disputes between them that may have existed, may now exist, or may exist in the future, without any Party admitting any liability to any other Party, all terms and conditions of this Agreement, in order to avoid the expense, delay, and distraction of legal proceedings.

## TERMS, REPRESENTATIONS AND WARRANTIES

Incorporation of Recitals. Each of the Parties hereto acknowledges that the recitals is true and accurate, and each Recital is incorporated herein by reference and fully set forth in the body of this Agreement.

Payment by WCG to Gevisser Parties. Concurrently with the mutual execution of this Agreement by WCG and the Gevisser Parties, WCG shall pay to the Gevisser Parties the sum of Nine Thousand Three Hundred Seventy Five and No/100 Dollars means of a check made payable to the order of "Gevisser Group" drawn on a business in the State of California and delivered to the Gevisser Parties at Del Mar, California 92014, Attention: Mr. Gary Gevisser. Once the check has been delivered in accordance with the foregoing, this Agreement shall be effective and every is hereinafter referred to as the "**Effective Date**").

Release of WCG by the Gevisser Parties. Upon the Effective Date, and upon a breach of the obligations created, recognized or preserved by this Agreement, the Gevisser Parties, and each of them, for themselves and for their respective past and present affiliated entities, officers, directors, shareholders, members, partners, spouses, parents, subsidiaries, heirs, executors, predecessors, successors and assigns ("**Gevisser Releasing Parties**") hereby release and discharge WCG and its agents, affiliated entities, officers, directors, shareholders, members,

SIGN  
HERE  
SIGN  
HERE



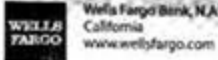
VICKY SCHIFF

15-24  
1222  
03785 12859  
Date 10-23-01

459

Pay to the  
Order of Gary Greisser

\$ 459.00



Memo September -

Vicky Schiff

+1: 2200024710378512859 0459

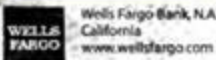
VICKY SCHIFF

15-24  
1222  
03785 12859  
Date 10-23-01

460

Pay to the  
Order of Gary Greisser

\$ 460.00



Memo September - N360 Permen

Vicky Schiff

+1: 2200024710378512859 0460

October 23, 2001

### **Subject: High-Leverage**

Vicky, this is intended as a partial recap of the Oct. 8<sup>th</sup> strategy meeting. It may also provide Dick Ziman with a more comprehensive response to his question of how I saw myself "fitting in?" At this time, perhaps, for others to get a sense of what I can contribute is to know a little from where I come; my discovering at an early age how easy it is to gain "high-leverage" even if clueless. [I may have mentioned that one of my favorite movies is, *Being There*.] It might have been more apropos given my background had I responded, "My grandfather understood at age 12 the basic principles of leverage while pushing a wheelbarrow on the streets of Durban, South Africa, picking up unbroken bottles. It wasn't long before he grasped that in order to achieve his dreams of building a trading conglomerate he would have to gain even "higher leverage," to mention little of putting his good name to use. For nearly three decades I have helped leverage others like Wetherly Capital for good effect including figuring different levers to help keep Wall Street clean. [By the way, while the impoverished Jews of Europe passed through Ellis Island in their pursuit of Happiness, the dirt poor Jews trekked through Africa simply thankful to be passing up government sponsored pogroms.]

### **Government sponsored programs**

Today our government is making what are primarily long-term economic decisions in the new war against terrorism. It is all about who gets the most "protection" dollars. As our political leaders begin to realize that they are in Washington and in lower basin states first and foremost to get re-elected, it won't be long before we see the unified front in the war against terrorism begin to wane.

The New War brings America much closer to the Third World; different to what the author of "The pursuit of ..." had in mind. It is in fact, Third World leaders who have mastered the power of words, i.e., Sticks and stones break bones, but words kill. The new war against terrorism and the 1930's war against poverty have much in common. Both resulted in monies immediately flowing into New York before spreading west. This time, however, there will be greater competition and therefore more scrutiny of projects that benefit the few, i.e., the "free lunches" that the New Deal afforded California farmers will come under fire, especially as the water crisis heats up.

Before any "trickle down" from government stimulus packages is felt out west, businesses will first have to bear the cost of the terror attacks, to mention little of the insurance industry's ability to pass along their losses, often to those who can least afford it. [See attached Tillinghast and Morgan Stanley reports.] The term "exposure" will become more widely understood. Going "naked" is not an option for most businesses unless one is thinking outside of the box.

### **Finding funding opportunities**

The opportunity exists for a group like Wetherly Capital to leverage not only our own business and political resources but, in addition, to play off those who are not quite sure about the business they are in. We should gather the intelligence that will allow us to tap into programs/projects that have government support on all levels, federal, state and local and



October 23, 2001

leverage this know-where with a mix of know-how. For example, we already know the investment community see a water play as prescient and politicians, especially in California know the "run off" of water could result in them not being re-elected. Given the nature of this fragmented and archaic industry, the opportunity exists for a group that has a good grasp of both the economic and political landscape, domestic and international, to carve out niche opportunities. With the right intelligence, we should be able to position ourselves to ride the crest of this particular wave and mitigate the "masses" from dropping in too closely.

The bottom line is that fund raising is a cyclical business. Right now buyout funds can't do transactions because they cannot get bank financing; their collateral is all but useless. We might also want to consider going after NASDAQ companies that are clearly not going away; targeting market sector leaders who are out of favor for some reason but still have a high likelihood of recovery in the next swing of the market, whether it be in six months from now or six years. Today few analysts are taking positions in such companies unless they are Blue Chip. Real estate may very well be an excellent play, especially considering the tenured standing of our group, but I would defer to those amongst us who know much more than I do on this subject.

### Strategy

Establish an independent fund or joint venture with an established buy-out fund that takes less than a 5% position in targeted companies, preferably in those where we as a group might be able to add value, and then negotiate a deal – a preferred or convertible preferred. Just such a show of confidence can bolster overall public confidence. Ideally, the company can do something with the money. One strategy could involve accumulating convertible instruments packaging them and then selling them off.

The advantage of a new fund is that existing funds already have their carried interest allocated and therefore attracting new blood is often difficult. The downside is that to put something like this together from soup to nuts would probably take about six months, cost about \$250K and there is the risk that during this time some of these out of favor stocks will very likely recover.

### Suggested Next Steps/Items to discuss

1. How does proceeding down the path to start a new fund fit in with the other activities of Wetherly?
2. Identify the right type of business opportunities; "debrief" decision makers in both the private sector, i.e., investment officers as well as the public sector, i.e., politicians and their advisors, to provide valuable insight.
3. Determine what resources would be needed for this effort; who is going to do what and when, etc.
4. How to get the word out about the business of Wetherly?