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February 24, 2011

BY E-MAIL AND FEDEX

The Honorable Anthony J. Carpinello
JAMS
620 Eighth Avenue, 34th Floor
New York, New York 10018

Re: Fortress VRF I LLC and Fortress Value Recovery Fund 1 LLC v. Jeepers, Inc.
JAMS Ref. No. 1425006537

Dear Judge Carpinello:

Third-Party Respondents Daniel B. Zwirn, D.B. Zwirn & Co. L.P. (“DBZ”), DBZ GP, and Zwirn Holdings, LLC submit this letter in response to Third-Party Claimants Financial Trust Company, Inc. and Jeepers, Inc.’s (collectively, “Jeepers”) request for permission to depose Perry Gruss, DBZ’s former Chief Financial Officer.

We submit that Jeepers has not met its burden to show good cause why Mr. Gruss’s deposition should be taken, and Your Honor should deny permission to take his deposition.¹

In its February 14, 2011 letter, Jeepers tries to portray Mr. Gruss as indispensable to its case. A fair reading of Jeepers’ claims reveals that the proffered testimony is—at best—tangential and would lead to a diversion from the central issues in the case.

The primary issue in this case is when Jeepers was entitled to redeem its investment in the D.B. Zwirn Special Opportunities Fund (the “Fund”). Jeepers alleges that during a conversation with Mr. Zwirn on November 13, 2006, Jeffrey Epstein, Jeepers’ owner, asked to redeem Jeepers’ entire investment (worth approximately \$135 million at that time). Jeepers alleges that Mr. Zwirn promised that if Mr. Epstein sought to redeem only \$80 million of Jeepers’ investment, that request would be honored quickly.² We contend that Mr. Epstein’s allegations are a recent fabrication and that Mr. Zwirn made no such promise to Mr. Epstein. Jeepers further claims that it was permitted to redeem its entire investment on November 13, 2006, which the Third-Party Respondents also dispute.

¹ We note that the standards for discovery in this arbitration are very different from those in federal or state court litigation. In their partnership agreement, the parties specifically agreed that “prearbitration discovery shall be limited to the greatest extent provided by the rules of JAMS,” which provide that parties are limited to one deposition of an opposing party. The test for additional depositions is not mere relevance; rather, as Your Honor stated during our February 8, 2011 conference call, “good cause” must be shown. Jeepers has not met that burden.

² See Jeepers’ Third-Party Complaint at Paragraph 37.