

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

CASE NO.

CIVIL DIVISION

BANCRÉDITO HOLDING CORPORATION,  
derivatively for the benefit of and on behalf of  
BANCRÉDITO INTERNATIONAL BANK &  
TRUST CORPORATION,

Plaintiff,

v.

MCCONNELL VALDES LLC, a Puerto Rico  
limited liability company; HOLLAND &  
KNIGHT LLP, a Florida limited liability  
partnership; MCDERMOTT WILL AND  
SCHULTE, a foreign limited liability  
partnership,

Defendants.

\_\_\_\_\_ /

### **COMPLAINT**

Plaintiff, BANCRÉDITO HOLDING CORPORATION (“BHC”), derivatively for the benefit of and on behalf of BANCRÉDITO INTERNATIONAL BANK & TRUST CORPORATION (“Bank”), by and through its undersigned counsel, hereby files this Complaint against Defendants MCCONNELL VALDES LLC (“McV”); HOLLAND & KNIGHT LLP (“HK”); and MCDERMOTT WILL AND SCHULTE (“MWS”) (collectively with McV and HK, “Bank’s Counsel” or “Defendants”) and alleges as follows:

### **INTRODUCTION**

1. BHC brings this action derivatively on behalf of and for the benefit of the Bank to redress injuries suffered by the Bank as a direct and proximate result of Bank’s Counsel’s

egregious legal malpractice with respect to the legal advice they provided to the Bank in connection with a Financial Crimes Enforcement Network (“FinCEN”) investigation.

2. Certain of Bank’s Counsel previously advised the Bank that its Bank Secrecy Act (“BSA”) and Anti-Money Laundering (“AML”) compliance programs were sufficient and adequate. Yet, in connection with the FinCEN investigation, Bank’s Counsel advised the Bank to abandon that position, ultimately leading the Bank to agree, without first advising BHC, on September 15, 2023, to enter into a consent order with FinCEN under which the Bank agreed to pay an unheard of substantial monetary penalty of \$15 million (the “Consent Order”).

3. Worse still, Bank’s Counsel, in the Consent Order, led the Bank to agree that its supposed violations of the BSA and inadequacy of its AML program were done willfully, abandoning all defenses, including that the Bank acted in good faith and under the previous advice of counsel that its programs were adequate and sufficient.

4. As a direct and proximate result of Bank’s Counsel’s negligence, Bank suffered substantial damages of no less than the \$15,000,000 penalty under the Consent Order as well as reputational and other harm totaling millions of dollars.

### **PARTIES**

5. BHC is a New York corporation that owns all the capital stock of the Bank. BHC’s principal place of business is in Florida.

6. Bank is a Puerto Rico corporation that at all relevant times prior to entering receivership held an international banking entity (“IBE”) license (in Puerto Rico) under the Puerto Rico International Banking Center Regulatory Act (the “IBE Act”), which allowed the Bank to provide financial services to non-residents of Puerto Rico, including personal, private, institutional, and corporate banks in the United States and abroad. It is currently in receivership

with the receiver, Driven Administrative Services LLC (“Receiver” or “Driven”), acting as the Bank’s board of directors (as further described herein).

7. Defendant McV is a foreign limited liability company doing business in the State of Florida and registered with the State of Florida Division of Corporations as a foreign limited liability company with a commercial office as advertised by McV located at 1 SE 3rd Ave, Ste. 1650, Miami, FL 33131 in Miami-Dade County, Florida, and may be served through its registered agent and/or manager, Corporate Creations Network, Inc., located at 801 US Highway 1, North Palm Beach, FL 33408, or wherever else it may be found. At all times material hereto, McV acted individually as well as by and through its partners, agents, apparent agents, servants and/or employees including, but not limited to, Arturo J. García Solá (“García”), Rubén Méndez Benabe (“Méndez”), and Lizzie Portela Fernández (“Portela”), acting within the course and scope of their agency, apparent agency and/or employment and in furtherance of McV’s business.

8. Defendant HK is a Florida limited liability partnership with its principal place of business located in Hillsborough County, Florida. HK is an international law firm with 36 offices and more than 2,000 attorneys, including eight offices and more than 300 attorneys in the state of Florida. HK may be served through its registered agent and/or manager, Corporate Creations Network, Inc., located at 801 US Highway 1, North Palm Beach, FL 33408, or wherever else it may be found. At all times material hereto, HK acted individually as well as by and through its partners, agents, apparent agents, servants and/or employees, including, but not limited to, Gabriel Caballero (“Caballero”) and Andres A. Fernandez (“Fernandez”), acting within the course and scope of their agency, apparent agency and/or employment and in furtherance of HK business.

9. Defendant MWS is a foreign limited liability partnership with its principal place of business located in Miami-Dade County, Florida. MWS is an international law firm with approximately 25 offices and more than 1,500 attorneys, including two offices and nearly 100 attorneys in the state of Florida. MWS may be served through its registered agent and/or manager, CT Corporation System, 1200 South Pine Island Road, Plantation, FL 33324, or wherever else it may be found. At all times material hereto, MWS acted individually as well as by and through its partners, agents, apparent agents, servants and/or employees, including, but not limited to, Sarah E. Walters (“Walters”) and Mara Theophila (“Theophila”), acting within the course and scope of their agency, apparent agency and/or employment and in furtherance of MWS business.

### **JURISDICTION AND VENUE**

10. Pursuant to Fla. Stat. § 48.193(1)(a)(1), this Court has personal jurisdiction over Defendants, since they are operating, conducting, engaging in, and carrying on a business or business venture in this state and have offices or agency in this state.

11. This Court has subject matter jurisdiction under Section 26.012(2)(a), Florida Statutes, because the matter in controversy exceeds \$750,000.00, exclusive of interest and costs.

12. Venue is appropriate in Miami-Dade County, Florida pursuant to Fla. Stat. §§ 47.021, 47.051, as Defendants reside in different counties and Defendants all have offices in Miami-Dade County.

### **FACTUAL BACKGROUND**

#### **A. The Bank’s Formation, Legal Compliance Programs and the OCIF Investigation**

13. The Bank was incorporated in 2008 and BHC has been the Bank’s sole shareholder at all times relevant to the allegations herein.

14. As part of its operations, the Bank established compliance programs, including AML policies, procedures, and internal controls. These procedures included protocols for review of certain transactions for suspicious activity and filing reports of suspicious activity, known as suspicious activity reports (“SARs”), with the United States Department of the Treasury pursuant to 31 C.F.R. § 1020.320.

15. The Office of the Commissioner of Financial Institutions of Puerto Rico (“OCIF”) regulates the Bank as an IBE under Puerto Rico law. During all relevant times, OCIF supervised and examined the Bank’s compliance with AML, including the BSA, as the IBE Act incorporates by reference all federal AML statutes (including the BSA) and they are thus applicable to the Bank both as a matter of Puerto Rico law and federal law. The Bank repeatedly provided any information that OCIF requested.

16. In or around 2020, to facilitate the Bank’s discussions with OCIF concerning its regulatory oversight of the Bank, including examination of the Bank’s BSA and AML procedures and compliance, the Bank retained McV and HK as counsel to review, audit, and provide legal opinions regarding the Bank’s compliance with the BSA and AML (both under federal law and the IBE Act), which included a review of many of the Bank’s transactions to determine whether the Bank was required to issue SARs with respect to certain transactions. Pursuant to that retention, McV and HK advised the Bank that it was within its business judgment to not issue SARs for certain transactions for purposes of compliance under the IBE Act and the BSA. McV—as authorized attorneys to practice in Puerto Rico—represented the Bank before OCIF, as OCIF was exercising jurisdiction under the IBE Act. Concurrently, HK provided advice concerning the Bank’s compliance with the BSA and applicable FinCEN directives both under federal law and as incorporated under Puerto Rico law pursuant to the IBE Act.

17. Specifically, in a joint September 3, 2020 letter on behalf of the Bank to OCIF, McV and HK, through their respective attorneys Méndez and Fernandez opined that: (i) the Bank’s various due diligence and BSA/AML compliance procedures were sufficient under the applicable BSA laws and guidance from federal regulators and thus were also sufficient under the IBE Act; (ii) the “Bank exercised reasonable, risk-based judgment which considered, among other things, the information it obtained through its” due diligence and compliance procedures in making its SAR filing decisions, which is an “inherently subjective judgment” pursuant to the Federal Financial Institutions Examination Council’s (“FFIEC”) BSA/AML Examination Manual (“FFIEC Manual”) created in conjunction with FinCEN; and (iii) automatic issuance of an “SAR upon the generation of an alert or a raised red flag without additional due diligence” is not required under the law and OCIF’s position to the contrary ignores the significant due diligence and analysis that the Bank conducted for every red flag in determining whether a SAR filing was necessary or appropriate.

18. As a result of McV and HK’s review and legal advice (specifically through Méndez, Fernandez, and Caballero), the Bank and OCIF entered into a Memorandum of Understanding on December 21, 2021 (the “2021 MOU”), in which the Bank agreed to certain AML program improvements, including organizing a Special BSA Directors Committee (“Special Committee”) to oversee the Bank’s compliance programs; to conduct an independent look-back review for a five-year period of substantially all of the Bank’s customers’ transactions for AML compliance purposes—which resulted in the determination that a mere 32 transactions, instead of the over 300 transactions that OCIF had flagged during the process, had required that SARs be filed; and to pay an administrative money penalty of \$97,000.

19. Of note, a Memorandum of Understanding is a less impactful action taken by OCIF as regulator than a Consent Order or a Cease and Desist Order, which are enforcement

actions usually associated with more serious compliance issues. As a result of the advice provided by McV and HK, OCIF agreed to formalize its action with less impactful action.

## **B. The Receivership**

20. In or around April 2022, the directors of the Special Committee unexpectedly resigned, putting the Bank in involuntary non-compliance with the terms of the 2021 MOU. Since BHC desired to divest the Bank from Puerto Rico and redeploy its capital in other jurisdictions, BHC, the Bank, and OCIF entered into a settlement in August 2022, whereby the Bank agreed to a voluntary liquidation plan for the Bank (the “Liquidation Plan”).

21. Under the Liquidation Plan, the Bank appointed Driven solely as administrator for the Bank during the liquidation process and charged Driven with paying and discharging “all liabilities and obligations” of the Bank. The Bank’s Board of Directors and Officers continued in their roles and oversaw and supervised Driven’s efforts as administrator.

22. On or about January 11, 2023, OCIF issued a receivership order (i) revoking the Bank’s IBE license and (ii) placing the Bank into receivership, designating Driven as the receiver (the “Receivership Order”).

23. As Receiver, Driven assumed—with full knowledge—control of the Bank’s assets and liabilities and assumed the role of the Bank’s Board of Directors and Officers.

24. Specifically, the Receivership Order expressly stated that: “the Receiver will be in a position similar to the one that the management and directors of [the Bank] held prior to the receivership.”

25. Additionally, the Receivership Order also states that “[a]s part of said mandate, the Receiver will have a fiduciary duty both to [the Bank’s] creditors as well as to [the Bank’s] Shareholder”—*i.e.*, BHC.

26. BHC objected to certain aspects of the Receivership Order, and to resolve these objections, BHC, the Bank, and OCIF entered into a settlement agreement in March 2023.

**C. FinCEN’s Investigation into the Bank, Bank Counsel’s Involvement, and the Consent Order**

27. Pursuant to 31 U.S.C. § 310, FinCEN is a bureau in the United States Department of the Treasury that is statutorily charged with enforcing the BSA, and whose stated mission “is to safeguard the financial system from illicit activity, counter money laundering and the financing of terrorism, and promote national security through strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.”

28. In or around mid-November 2019, FinCEN, exercising its authority under the BSA, commenced an investigation into the Bank’s BSA and AML compliance program. Upon information and belief, the documents and evidence that FinCEN relied upon to support its investigation were largely based on and/or obtained from OCIF’s examinations of the Bank.

29. Upon information and belief, the Receiver, for the benefit of the Bank, retained Defendants and their respective partners to negotiate with FinCEN.

30. Upon information and belief, certain Bank’s Counsel, including but not limited to McV (through Méndez) and HK (through Fernandez and Caballero), provided advice regarding the filing of SARs and other compliance-related issues including the adequacy of the Bank’s AML/BSA program under the IBE Act and the BSA.

31. Upon information and belief, since at least early December 2022, FinCEN and Driven (first as administrator and then as Receiver)—through Bank’s Counsel—engaged in negotiations to address FinCEN’s regulatory concerns.



32. Then, on September 15, 2023, without any notice to BHC as the Bank’s sole shareholder, the Receiver, acting as the Bank’s board of directors, entered into the Consent Order with FinCEN under which the Bank agreed to pay a monetary penalty of \$15 million.

33. The Consent Order also included admissions of numerous facts by the Bank, all of which, as described herein, were plainly false and erroneous, and known to Bank’s Counsel to be false and erroneous given their involvement or access to the advice previously given to the Bank.

34. Specifically, in the Consent Order, the Bank admits that FinCEN “identified tens of thousands of transactions by high-risk accountholders processed through [the Bank’s] foreign correspondent accounts, representing hundreds of millions of dollars in transactions.”

35. The Bank also admitted in the Consent Order that the Bank’s BSA and AML compliance program deteriorated over time.

36. But, as noted above, the Bank’s prior counsel, which included McV (through Méndez) and HK (through Fernandez and Caballero), previously reviewed the Bank’s BSA and AML compliance programs and determined they were sufficient and improved over time—not deteriorated as the Consent Order suggests.

37. As Bank’s Counsel knew before advising the Bank to agree to the Consent Order, the Bank’s AML/BSA program was subject to audits from independent auditors for the years 2020 and 2021—before the Bank’s liquidation and receivership—which found that the Bank’s AML/BSA program was satisfactory.

38. The Consent Order also erroneously states that the Bank failed to file SARs on “over \$100 million in suspicious transactions” and that there were “hundreds of millions of dollars in suspicious transactions on which ... [the Bank] failed to file timely SARs.”

39. The Bank agreed in the Consent Order that “FinCEN has determined that these facts establish that [the Bank] willfully violated the BSA by failing to timely and adequately file

SARs on suspicious transactions moving through the Bank, failing to establish an adequate due diligence program for correspondent accounts for foreign financial institutions, and failing to implement and maintain an adequate AML program.” The Bank similarly agreed in the Consent Order that the violations were all willful and the monetary civil penalty was based on the findings that the Bank acted willfully.

40. The Bank further agreed in the Consent Order that the Bank was only admitting “to ‘willfulness’ [] as the term is used in civil enforcement of the BSA under 31 U.S.C. § 5321(a)(1)” which is limited to “the government . . . show[ing] that the financial institution or individual acted with either reckless disregard or willful blindness” but not that “the conduct violated the BSA, or that the entity or individual otherwise acted with an improper motive or bad purpose.”

41. However, as noted above, as numerous of the Bank’s prior counsel, including McV and HK, had previously determined, no SARs were necessary for these transactions as the Bank acted within its reasonable business judgment.

42. On information and belief, the Receiver entered into the Consent Order on behalf of the Bank based on the negligent advice of Bank’s Counsel.

43. Moreover, on information and belief, Bank’s Counsel ignored Bank’s prior counsel’s (which included McV and HK) legal advice provided during the OCIF investigations, which found that the Bank’s BSA and AML compliance procedures were more than sufficient and that the Bank was not required to file SARs for the very same transactions at issue in the Consent Order.

44. As a result, Bank’s Counsel advised the Bank to enter into the Consent Order admitting to facts that were false, erroneous, and contrary to the Bank’s prior counsel’s (including McV and HK) advice.

45. By ignoring prior counsel's legal advice concerning the BSA and the Bank's AML procedures, Bank's Counsel also failed to raise with FinCEN any of the Bank's adequate defenses.

46. On information and belief, at no point during the negotiations with FinCEN did Bank's Counsel inform FinCEN of prior counsel's advice. Nor did Bank's Counsel advocate with FinCEN that based on that prior legal advice (much of which was provided by McV and HK who were actively negotiating with FinCEN alongside MWS), the Bank should not be subject to any punishment or penalty under the BSA.

47. Even if Bank's Counsel disagreed with prior counsel's advice concerning the Bank's compliance with the BSA and the decision to not file SARs—which would be surprising given that McV and HK had given that prior advice and was also engaging with FinCEN—on information and belief, Bank's Counsel also failed to notify FinCEN that the Bank had been acting at the advice of counsel, which would have shown that the Bank had not acted with reckless disregard or willful blindness and thus precluded any findings of willful violations as the Bank later falsely admitted to in the Consent Order at Bank Counsel's advice.

48. Had Bank's Counsel even exercised a modicum of due care—*e.g.*, simply checking against the extensive information available to the Bank, the Bank's sole shareholder (BHC), and many of Bank's Counsel themselves (*i.e.*, McV and HK) to determine whether those facts were accurate—Bank's Counsel, or any reasonable counsel acting under the circumstances, would not have advised the Bank to agree to the Consent Order, which admitted numerous inaccurate facts on behalf of the Bank and subjected the Bank to excessive and unnecessary fines and penalties.

49. On information and belief, Bank's Counsel needed to look no further than the 2021 MOU with OCIF to determine that the FinCEN allegations were inaccurate or at least

distorted and subject to numerous adequate defenses by the Bank. Indeed, on information and belief, the Bank's admissions in the Consent Order mirrored the allegations of OCIF's 2021 MOU, entered into before the Receiver's involvement, and imposed a civil money penalty of only \$97,000, far less than what the Receiver agreed to with FinCEN.

50. On information and belief, any reasonable attorney viewing the OCIF 2021 MOU and the Consent Order would have realized that the Bank was essentially being charged with the same conduct and yet with OCIF, in which the Bank, through its counsel at McV and HK, contested the violations based on the advice of its legal counsel, the fine was only \$97,000 and only 32 transactions were determined, upon further review, to require SARs, while with FinCEN, in which the Bank's Counsel chose to abandon that advice, the Bank was liable for fines in the amount of \$15 million and admitted that hundreds of the same transactions had purportedly required SARs (as opposed to just 32).

51. Accordingly, the heightened penalty that the Bank received from FinCEN in the Consent Order, as well as the reputational and other harm to the Bank resulting therefrom, was, on information and belief, a direct result of the Bank's reliance on the negligent advice of Bank's Counsel, who abandoned the prior legal advice from McV and HK that the SARs were not necessary and agreed to admit and accept penalties relating to purportedly willful violations of the BSA (based on the same facts as the OCIF 2021 MOU) when no such willful violations existed and had not been previously agreed to in the OCIF 2021 MOU.

#### **D. BHC's Demand and The Receiver's Rejection**

52. BHC was the Bank's sole shareholder at all relevant times related to the actions alleged herein.

53. BHC brings this action derivatively on behalf of and for the benefit of the Bank to redress injuries suffered by the Bank as a direct and proximate result of Bank's Counsel's

egregious legal malpractice with respect to the legal advice they provided to the Bank in connection with the FinCEN investigation, negotiations, and agreeing to the Consent Order.

54. As sole shareholder, BHC will adequately and fairly represent the interests of the Bank in enforcing and prosecuting its rights.

55. Accordingly, on August 18, 2025, BHC made a formal demand on the Receiver—which is now in full control of the Bank and assumed the position of the Bank’s Board of Directors—to bring these legal malpractice claims on behalf of the Bank against Bank’s Counsel (the “Demand”).

56. Notably, the Receiver’s control includes the decision to file or not file any “claim, lawsuit, or procedure on behalf of [the Bank].”

57. However, on September 2, 2025, the Receiver—acting in place of the Board of Directors of the Bank—rejected the Demand, claiming, among other things, that it “understands that the potential claims raised in the [Demand] Letter are meritless, will provide no benefit to the Bank and, if anything, will needlessly prolong the Bank’s liquidation. Therefore, the filing of such claims is not in the Bank’s best interest.”

58. The Receiver wrongfully rejected the Demand and in doing so, was not acting in compliance with its fiduciary duties to the Bank and instead was acting in furtherance of its own best interests, in bad faith.

59. The Receiver did not exercise reasonable due care in investigating these allegations. On information and belief, the Receiver did not appoint anyone to investigate the claims.

60. The Receiver also acted in bad faith in choosing not to investigate or bring these claims against the Bank’s Counsel and particularly McV, whose lawyers, on information and belief, still actively represent the Receiver—despite the clear conflict of interest and possible

violations of ethical obligations to the Bank and the Receiver as their concurrent clients—in connection with the Liquidation.

61. On information and belief, the Receiver also acted in bad faith in rejecting the Demand because the Receiver itself is currently subject to a suit pending in the Federal District Court of Puerto Rico (with an appeal currently pending in the Federal First Circuit Court of Appeals) brought by BHC on behalf of the Bank for breach of fiduciary duty relating to many of the alleged claims herein. The Receiver pretextually rejected BHC's claims solely to protect itself and discredit all claims against the Receiver. This self-serving bad faith conduct is thus solely in the best interests of the Receiver and not the Bank.

62. For these reasons, the Receiver's decision to reject the Demand is not entitled to any business judgment or deferential treatment, and BHC is entitled to bring this derivative action on behalf of the Bank despite the Receiver's rejection of the Demand.

**COUNT I**  
**PROFESSIONAL MALPRACTICE**  
**(By Plaintiff against Defendants)**

63. Plaintiff realleges and incorporates paragraphs 1 through 62 above as if set forth fully herein.

64. On information and belief, Bank's Counsel were all retained and employed by the Bank pursuant to written retainer agreements in connection with their representation of Bank in its negotiations with FinCEN, which resulted in the Bank agreeing to the Consent Order.

65. As the Bank's legal counsel, Defendants owed the highest duties to the Bank to perform legal services with such skill, prudence, care and diligence commonly possessed by lawyers in the legal community in connection with Defendants' representation of the Bank in the negotiations with FinCEN, FinCEN's investigation of the Bank and the Consent Order. Further, Defendants owed a duty to the Bank to perform their services within the standard of knowledge

possessed by attorneys trained and experienced in the field of BSA and AML compliance and laws.

66. These duties included exploring all reasonable defenses that the Bank may have had in defending against FinCEN's allegations (as later described in the Consent Order).

67. Bank's Counsel negligently, if not intentionally, violated that duty and either neglected to review, or intentionally abandoned the legal advice that Bank received and Bank's Counsel (at least McV and HK and their respective partners) were acutely aware of, having provided the advice to Bank years prior in relation to the sufficiency of the Bank's BSA and AML compliance procedures, as well as the need—or more specifically the lack of a need—for the Bank to file SARs in relation to the transactions that FinCEN was investigating.

68. Bank's Counsel further neglected and/or intentionally violated its duties to the Bank to act with reasonable care in the provision of their legal advice, in, on information and belief, advising Bank to agree to the Consent Order, including, among other things, admissions of fact that were blatantly contradicted by the prior legal advice the Bank had received, and admitting that the Bank willfully violated the BSA, despite knowing that Bank was acting on the advice of counsel with respect to the alleged violations of the BSA.

69. It was foreseeable, that as a direct and proximate result of Bank's Counsel failure to exercise reasonable care in advising Bank to agree to the Consent Order, that Bank would be, and actually was, damaged in an amount not less than \$15 million, the amount of the civil fines/penalties assessed to the Bank by FinCEN in the Consent Order.

**WHEREFORE,** Plaintiff demands judgment against Defendants for damages in the amount of at least \$15,000,000, plus pre-judgment interest as permitted by law, plus costs and attorneys' fees, from the date of filing this Complaint through the date of judgment and for such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury of all issues triable as of right by jury.

Dated: September 12, 2025

Miami, Florida

Respectfully Submitted,

**KASOWITZ LLP**

By: /s/ Maria H. Ruiz

Maria H. Ruiz

Florida Bar No.: 182923

Elliott S. Wolf

Florida Bar No.: 1045734

1441 Brickell Avenue, Suite 1420

Miami, Florida 33131

Telephone: (305) 377-1666

Facsimile: (305) 377-1664

MRuiz@kasowitz.com

EWolf@kasowitz.com

*Counsel for Plaintiff Bancrédito Holding  
Corporation, derivatively for the benefit of and on  
behalf of Bancrédito International Bank & Trust  
Corporation*