

February 22, 2024

OTC Markets Group Inc.  
304 Hudson Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Re: FalconStor Software, Inc. (the “Issuer”)

To whom it may concern:

The purpose of this letter is to provide information to the OTC Markets Group Inc. (“OTC Markets Group”) upon which the OTC Markets Group may rely in determining whether the Issuer has made the adequate current information publicly available within the meaning of Rule 144(c)(2) of the Securities Act of 1933 (as amended, the “Securities Act”).

Olshan Frome Wolosky LLP has served as the Issuer’s securities counsel since 2001. We do not beneficially own any shares of the Issuer’s securities, nor have we received, or have an agreement to receive in the future, shares of the Issuer’s securities, in payment for our services.

In delivering this letter to the OTC Markets Group, we have examined such corporate records and other documents that we considered necessary or appropriate to provide this letter to the OTC Markets Group, including:

- i. The Issuer’s Restated Certificate of Incorporation, as amended, bylaws, as amended and other corporate records and documentation; and
- ii. The Issuer’s Disclosure Statement Pursuant to the Pink Basic Disclosure Guidelines for the year ended December 31, 2023 (the “Annual Report”), which will be posted on the OTC Disclosure and News Service on the date hereof or shortly thereafter. The financial statements contained in the Annual Report were audited by Weaver, who’s offices are located at 1601 South MoPac Expressway, Suite D250, Austin, TX 78746.
- iii. The financial statements contained in the Annual Report (collectively with the Annual Report, the “Information”) were prepared by the Issuer’s Chief Financial Officer, who has extensive experience as a finance executive both in publicly listed and privately held companies. Please note that while we can advise the OTC Markets Group as to who prepared the financial statements, we express no opinion with respect to the financial statements, financial schedules, statistical data or other financial information contained therein.

Moreover, we have reviewed such questions of law, if any, as we deemed necessary to provide this letter to the OTC Markets Group. We have relied upon information of fact obtained

from public officials, officers of the Issuer and other sources. We believe all such sources to be reliable.

Attorneys of our firm have (i) personally met with management and a majority of the directors of the Issuer, (ii) reviewed the Information, as amended, published by the Issuer through the OTC Disclosure and News Service and (iii) discussed the Information with management and a majority of its directors. We met with Vincent Sita, Michael Kelly, Barry Rudolph, William Miller and Todd Brooks in connection with the foregoing. To the best of our knowledge, after inquiry of such members of management and directors of the Issuer, neither the Issuer, any 5% holder of the Issuer's securities, nor the Issuer's counsel is currently under investigation by any federal or state regulatory authority for any violation of federal or state securities laws.

At present, "adequate public information" is available concerning the securities, as that term has been defined in Rule 144(c)(2) of the Securities Act Rules and this information has been posted on the OTC Disclosure and News Service. The Information includes all of the information that a broker-dealer would be required to obtain from the Issuer to publish a quotation for the securities under Rule 15c2-11 of the Exchange Act Rules and complies as to form with the OTC Markets Group's Pink Basic Disclosure Guidelines, which are located on the Internet at [www.otcm Markets.com](http://www.otcm Markets.com), and have been posted through the OTC Disclosure and News Service.

The Issuer's transfer agent is Computershare Investor Services. They are registered with the United States Securities and Exchange Commission (the "SEC"). The number of outstanding shares set forth in the Information was confirmed by discussions between the undersigned and the Issuer's Chief Financial Officer.

We are licensed to practice law in the State of New York and we are citizens of the United States of America. We are permitted to practice before the SEC and no member of this firm has been prohibited from practice hereunder. We do not express any opinion herein concerning any law other than the laws of the State of New York and the Federal laws of the United States of America as in effect on the date hereof.

We are not currently, and have not been in the past five years, (a) the subject of an investigation, hearing or proceeding by the SEC, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, or any other federal, state, or foreign regulatory agency, (b) suspended or barred from practicing in any state or jurisdiction, or (c) charged in a civil or criminal case.

We furnish this letter solely for the benefit of the OTC Market Group and the Issuer. This letter is not to be used, circulated, quoted or otherwise referred in whole or in part for any other purpose. Further, we undertake no obligation to update this letter based upon any changes occurring or matters that come to our attention after the date of this letter. This firm grants OTC Markets Group permission to publish this letter through the OTC Disclosure and News Service for public viewing.

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The Issuer's predecessor was a shell company as defined in Rules 405 of the Securities Act for a brief period in 2001.

Very truly yours,

  
Kenneth A. Schlesinger, Esq.