

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Palm Beach Division)

Case No. 9:19-CV-80633-ROSENBERG

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

NATURAL DIAMONDS INVESTMENT CO.,
et al.,

Defendants,

H.S. MANAGEMENT GROUP LLC, et al.,

Relief Defendants.

**RECEIVER'S AMENDED, AND UNOPPOSED, MOTION TO CONSOLIDATE
AND EXPAND RECEIVERSHIP OVER DEFENDANTS NATURAL
DIAMONDS INVESTMENT CO. AND EAGLE FINANCIAL DIAMOND GROUP,
INC. A/K/A DIAMANTE ATELIER; INCORPORATED MEMORANDUM OF LAW**

Jeffrey C. Schneider, not individually, but solely in his capacity as the Court-appointed receiver (the "Receiver" or "Mr. Schneider") for Argyle Coin, LLC ("Argyle") and its subsidiaries, successors and assigns, hereby moves, on an unopposed basis, to consolidate and expand the receivership over Defendants Natural Diamonds Investment Co. ("NDIC") and Eagle Financial Diamond Group, Inc. ("EFDG") a/k/a Diamante Atelier, the entities that are currently in a corporate monitor proceeding pending before the Honorable Donald Middlebrooks.

The Receiver filed the original version of this Motion on July 2, 2019 [DE 90], but at the time of selecting the name of the pleading, two names were inadvertently selected. Although the clerk corrected the entry on the docket, emails from counsel expressed obvious confusion over the other name selected, and the Court was copied on those emails, resulting in the original motion

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being denied without prejudice. As represented in the certification below, all parties were provided with a copy of the original motion and consented to the relief requested therein and all parties have been provided with a copy of this motion and consent to the relief requested herein.

RELEVANT BACKGROUND

1. Pursuant to the Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver [DE 20] (the "Appointment Order"), this Court appointed the Receiver for Argyle on May 16, 2019.

2. On March 28, 2019, approximately two months before the Receiver's appointment, the Honorable Donald Middlebrooks appointed Mr. Schneider as Corporate Monitor for NDIC and EFDG in the related pending case of *Rounds v. Natural Diamonds Investment Co., et al.*, Case No. 18-cv-81151 (the "Corporate Monitor Action").

3. On May 31, 2019, Judge Middlebrooks issued an Order Closing Case in the Corporate Monitor Action, a copy of which is attached as Exhibit A. The Order Closing Case was a direct result of the plaintiff investors (the Rounds) in that action voluntarily dismissing their claims so that NDIC and EFDG could be added as additional receivership entities in this action, thereby avoiding two actions and two appointments before two judges involving the same fraud and overlapping investors.

4. Indeed, given the dismissal of the plaintiffs' claims in the Corporate Monitor Action, the only remaining function in the Corporate Monitor Action is the work of the Corporate Monitor as it relates to NDIC and EFDG, which are also defendants in this action.

5. Under the present circumstances, the Receiver believes that the most efficient manner of proceeding is to consolidate NDIC and EFDG from the Corporate Monitor Action as entities expressly subject to the Receivership in this action and, therefore, to expand the Receivership to include NDIC and EFDG as receivership entities in this action.

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6. Consolidating NDIC and EFDG from the Corporate Monitor Action into this action is the only viable option to combine the proceedings and avoid duplication of efforts because transferring this SEC enforcement action to the Corporate Monitor Action is not possible given the pending claims brought by the SEC.

7. Based on the above, there is no reason for there to be two related and overlapping simultaneous Court-appointed fiduciary proceedings pending before both this Court and before Judge Middlebrooks, especially when the plaintiffs' claims in the Corporate Monitor Action have been dismissed.

8. A proposed Order granting this Motion is attached as Exhibit B. Entry of the proposed Order will streamline the two proceedings into one receivership proceeding before this Court.

9. Upon entry of the requested Order, Mr. Schneider will promptly take the necessary steps in the Corporate Monitor Action before Judge Middlebrooks to close the related monitorship proceeding. Mr. Schneider anticipates doing that within the next 30 days.

MEMORANDUM OF LAW

10. District Courts have the ability to expand a receivership over entities in possession of receivership assets. *See Quilling v. Gilliland*, No. 3-01-CV-1617-BD(M), 2002 WL 373560, at *1 (N.D. Tex. Mar. 6, 2002) (receivership expanded to include trust, LLCs, and individual). Indeed, because a receiver has the obligation to take custody and control of all receivership assets, District Courts routinely expand receiverships to effectuate that very purpose. *See id.*; *see also In re Maltais*, 202 B.R. 807, 810 (Bankr. D. Mass. 1996) (receivership expanded over corporations which received receivership assets); *In re W. Commercial Funding, Inc.*, Bankr. No. 87-4-3034, 1989 WL 11792, at *1 (Bankr. D. Md. Feb. 7, 1989) (receivership expanded to include insiders who possessed assets of receivership entities).

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11. According to the SEC's prior submissions [*i.e.*, DE 5] and this Court's Orders (including the Order of Preliminary Injunction and Other Relief against All Defendants and Relief Defendant H.S. Management Group LLC [DE 40]), this action involves a multi-layer purported Ponzi scheme between NDIC, EFDG and Argyle in which, among other things, the assets of, funds of, investments made in, and liabilities of NDIC, EFDG and Argyle have been commingled and/or transferred among each other. Therefore, the requested consolidation and expansion of NDIC and EFDG in the subject Receivership is appropriate. *See SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) *rev'd in part on other grounds*, 998 F.2d 922 (11th Cir. 1993) (the Court's power to supervise an equity receivership and determine the appropriate action to be taken in the administration of the receivership is extremely broad).

CERTIFICATION

The Receiver has conferred with the SEC, the Defendants, and the Relief Defendants regarding this Motion. The SEC has no objection to the relief requested herein or the proposed Order attached hereto. Counsel for the Seigels and Relief Defendant H.S. Management states that, based upon the information available at this time, H. Seigel, J. Seigel and H.S. Management, LLC. are not opposing the consolidation of the corporate monitorship of NDIC and EFDG into the SEC Receivership presently existing over Argyle Coin. The remaining Defendants and Relief Defendants likewise have no objection to the relief requested herein or the proposed order attached hereto.

WHEREFORE, the Receiver respectfully requests that this Court enter the proposed Order, attached as Exhibit B, consolidating NDIC and EFDG from the Corporate Monitor Action into this action and expanding the Receivership to expressly include NDIC and EFDG.

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Dated: July 9, 2019

Respectfully submitted,

Jeffrey C. Schneider, P.A.
Court-Appointed Receiver
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By: /s/ Jeffrey C. Schneider
JEFFREY C. SCHNEIDER, P.A.

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Jeffrey C. Schneider
JEFFREY C. SCHNEIDER, P.A.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 18-81151-CV-MIDDLEBROOKS

DONNA ROUND and KEITH ROUND,
foreign individuals and nationals,

Plaintiff,

v.

NATURAL DIAMONDS INVESTMENT CO.,
a Florida corporation, HAROLD SEIGEL,
an individual, and JONATHAN SEIGEL,
an individual,

Defendants.

ORDER CLOSING CASE

THIS CAUSE comes before the Court on Plaintiff's Notice of Voluntary Dismissal with Prejudice, filed February 22, 2019. (DE 7). Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication." Fed. R. Civ. P. 41(a)(2). District courts have broad discretion to determine whether to allow a voluntary dismissal under Rule 41(a)(2). *Pontenberg v. Boston Sci. Corp.*, 252 F.3d 1253, 1255 (11th Cir. 2001). "[I]n most cases a dismissal should be granted unless the defendant will suffer clear legal prejudice, *other than the mere prospect of a subsequent lawsuit*, as a result." *McCants v. Ford Motor Co.*, 781 F.2d 855, 856-57 (11th Cir. 1986) (emphasis in original). The district court must

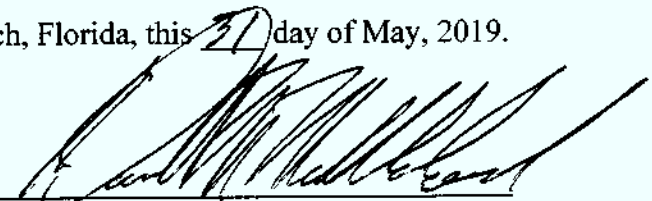
“weigh the relevant equities and do justice between the parties in each case, imposing such costs and attaching such conditions to the dismissal as are deemed appropriate.” *Id.* at 857.

Here, Defendants have not filed a counterclaim or any objection to dismissing this case. The Parties agreed to the appointment of a Corporate Monitor, who was appointed on March 28, 2019. (DE 31; DE 32). Plaintiffs aver that, with the Corporate Monitor in place, they do not intend to pursue the claims alleged in the Complaint. (DE 36). The Corporate Monitor also asserts that he will not pursue the claims alleged by Plaintiffs in the Complaint. (*Id.*) Accordingly, it does not appear that Defendants will suffer legal prejudice if this case is dismissed.

Accordingly, it is **ORDERED AND ADJUDGED** that

- (1) This case is **DISMISSED WITHOUT PREJUDICE**.
- (2) The Clerk of Court shall **CLOSE THIS CASE**. All pending motions are **DENIED AS MOOT**.
- (3) This Court reserves jurisdiction to oversee the Corporate Monitorship. Jurisdiction will be reserved indefinitely.

SIGNED in Chambers, at West Palm Beach, Florida, this 21 day of May, 2019.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Palm Beach Division)**

Case No. 9:19-CV-80633-ROSENBERG

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

NATURAL DIAMONDS INVESTMENT CO.,
et al.,

Defendants,

H.S. MANAGEMENT GROUP LLC, et al.,

Relief Defendants.

**ORDER GRANTING RECEIVER'S AMENDED, AND UNOPPOSED,
MOTION TO CONSOLIDATE AND EXPAND RECEIVERSHIP OVER
DEFENDANTS NATURAL DIAMONDS INVESTMENT CO. AND
EAGLE FINANCIAL DIAMOND GROUP, INC. A/K/A DIAMANTE ATELIER**

THIS MATTER is before the Court upon the Receiver's Amended, and Unopposed, Motion to Consolidate and Expand Receivership over Defendants Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier (the "Motion") [DE ____]. The Court has reviewed the Motion, the record, and being otherwise advised in the premises, it is hereby **ORDERED and ADJUDGED** that:

1. The Motion is **GRANTED**.
2. Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier are consolidated into this action from the Corporate Monitorship from the related

case of *Rounds v. Natural Diamonds Investment Co., et al.*, Case No. 18-cv-81151 for the reasons stated in the Motion.

3. The Receivership is hereby expanded to include as Receivership Entities Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier and their subsidiaries, successors and assigns.

4. This Court's Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver (the "Appointment Order") [DE 20] is amended and expanded in all respects to cover and include Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier, and their subsidiaries, successors and assigns, as if they were included among the original Receivership Entity (Argyle Coin, LLC) over which Jeffrey C. Schneider was appointed Receiver. Therefore, Jeffrey C. Schneider is hereby appointed Receiver for Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier, and their subsidiaries, successors and assigns.

5. This Court's Appointment Order [DE 20] shall apply with equal force and effect to Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier, and their subsidiaries, successors and assigns, as the Appointment Order applies to the original Receivership Entity (Argyle Coin, LLC). The terms, provisions, and orders in this Court's Appointment Order [DE 20] are incorporated herein by reference as to Natural Diamonds Investment Co. and Eagle Financial Diamond Group, Inc. a/k/a Diamante Atelier, and their subsidiaries, successors and assigns.

6. Other than as described above, all provisions of the Appointment Order [DE 20]

remain in full force and effect and are not otherwise affected by this Order.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this _____ day of
July, 2019.

**THE HONORABLE JUDGE ROSENBERG
UNITED STATES DISTRICT COURT JUDGE**

Copies to: Counsel of Record