

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

NATURAL DIAMONDS INVESTMENT CO.,
EAGLE FINANCIAL DIAMOND GROUP INC.
a/k/a DIAMANTE ATELIER,
ARGYLE COIN, LLC,
JOSE ANGEL AMAN,
HAROLD SEIGEL, &
JONATHON H. SEIGEL,

Defendants,

H.S. MANAGEMENT GROUP LLC,
GOLD 7 OF MIAMI, LLC,
WINNERS CHURCH INTERNATIONAL INC.
OF WEST PALM BEACH, FLORIDA,
FREDERICK D. SHIPMAN, &
WHITNEY SHIPMAN,

Relief Defendants.

_____ /

SEIGELS' NOTICE OF SETTLEMENT STATUS

1. COMES NOW, Defendants, HAROLD SEIGEL, and JONATHAN SEIGEL along with Relief Defendant, H.S. MANAGEMENT GROUP, LLC, by and through undersigned counsel, and upon filing herein informs the Court as to Settlement Status upon which the SEC Stay is based and states: The SEC reached settlement with Defendants HAROLD SEIGEL, JONATHAN SEIGEL and Relief Defendant, HS MANAGEMENT, for full relief, including all monies received by my clients from the Receivership entities (Co-Defendants: Argyle, Eagle and Natural), civil penalties and prejudgment interest via consent judgment. This is a tremendous resolution for the Investors.

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2. The SEC was granted a Stay, pending trial in this cause, sufficient for SEC counsel to obtain Commission approval of the settlement.

3. Upon news of the settlement and despite the stay, the Receiver is continuing this matter and attempting to obstruct settlement *by now threatening suit* against Defendants HAROLD SEIGEL, JONATHAN SEIGEL and Relief Defendant, HS MANAGEMENT, claiming, breach of fiduciary duty to the Investors, and by filing frivolous discovery motions, seeking personal asset information on these Defendants to determine their solvency, when Receiver failed to otherwise take advantage of the discovery period afforded him during suit.

4. Given this recent turn of events, the undersigned cannot advise her clients to settle with the SEC if only to turn around and relitigate that which they thought had been resolved. As a result of the Receiver's looming threat, settlement with the SEC has now become contingent on resolution with the Receiver. While the Receiver hems and haws trying to decide whether he has 'enough' to proceed on its claim, the SEC is running out of time within which to submit the settlement documents to the Commission for approval, while staying in compliance with the stay order. While failing to make use of the discovery period afforded him in the underlying SEC action, the Receiver had an entire year to decide what, if any claims, to bring against these Defendants. The SEC was expecting to receive a decision from the Receiver by June 30, 2020. That was not forthcoming. Remaining indecisive, the Receiver is forcing these Defendants to litigate against the SEC knowing they signed a consent judgement and do not wish to litigate. Aware of all this, the Receiver is playing a cat and mouse game with all involved.

5. In fact, the Receiver has been asking the undersigned to produce information and documentation which the Receiver is claiming is necessary for the Receiver to satisfy his duty as Receiver prior to entering global settlement. Despite the close of discovery, the undersigned has sought to comply with the Receiver's requests. However, it appears whatever the undersigned provides, it is never enough. It is a continuing moving target. It is wholly unclear what more the undersigned can do at this point. (See Exhibit "A" – email to the Receiver- certain confidential information redacted).

6. Furthermore, the "personal" asset information on these Defendants the Receiver

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now seeks has nothing to do with the Receivership or the Receivership Order¹. In fact, the Receiver is not “the Receiver” over Defendants, HAROLD SEIGEL, JONATHAN SEIGEL or Relief Defendant, HS MANAGEMENT, neither Defendant, HAROLD SEIGEL or JONATHAN SEIGEL, were signatories or otherwise had access to the bank accounts or books of the Receivership entities and, even if officers of the Receivership entities, which these Defendants deny, their personal asset information for purposes of solvency and collection has nothing to do with the Receivership or Receivership entities. As such, any further discovery motions the Receiver now brings would be frivolous.

7. Per the Receivership order, [DE 7 and DE 20], the Receiver’s duty *solely* over the Receivership Entities is to : (a) administer and manage the business affairs, funds, assets, causes in action and any other property *of Receivership entities*; (b) marshal and safeguard all of their [*The Receivership entities*’] assets; and (c) take whatever action is necessary for the protection of investors². The Receiver’s job is to harness assets and bring lawsuits to recover

¹ Receiver’s access to information:

- The individual Receivership Entity and past officers are ordered to preserve/turn over to Receiver all paper and electronic information *of/or relating to the Receivership Entity*; Past officers shall answer under oath to the Receiver all questions and produce all documents as required by the Receiver *regarding the business of the Receivership Entity*, or relevant to the operation or the collection of funds *due to the Receivership Entity*. In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entity, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.
- All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of *any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, of the Receivership Entity* not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of/for the benefit of the Receivership Entity except upon instructions from the Receiver; Not exercise any set-off, lien, self-help, or refuse to transfer funds/assets to the Receiver’s control without the permission of this Court; Within (5) days of this Notice, file with the Court, serve on the Receiver and counsel for the Commission a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and, cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

² The applicable powers and duties of the Receiver include:

- Use reasonable efforts to determine the nature, location and value of all property interests *of the Receivership Entity* (monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights, rents, profits or other income *the Receivership Entity* owns/has a beneficial interest in)
- To take custody and possession of *all Receivership Property*; to sue for and collect, recover, receive and take into possession *from third parties all Receivership Property* and hold in his possession, custody and control all Receivership Property, pending further Order of this Court;
- To use Receivership Property for the benefit of the Receivership, making disbursements and incurring expenses as may be necessary in discharging his duties as Receiver;
- To take any action which could have been taken by the officers, directors, partners, managers, trustees, and agents of the Receivership Entity *as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property*;
- Issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure and bring legal actions based on law or equity as the Receiver deems necessary or appropriate in discharging his duties.

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assets against *third parties* for the benefit of the investors; not first party Defendants in the very SEC lawsuit alongside the Receivership Entities. (see fn. 2).

8. This case is in settlement posture with the SEC. Under this settlement, the SEC stands to recover from the undersigned's clients *all* monies received by them from the Receivership entities, including civil penalties and interest. The undersigned's clients are not a part of the Receivership. Therefore, it will be up to the SEC collections unit to harness the assets and effectuate the collection of the judgement, penalties, and interest against my clients. The Receiver, however, is intent on spending all his time and Investor assets attempting to usurp the role of the SEC collections unit (by manufacturing claims against the undersigned's clients in an attempt to collect) merely because the Receiver does not trust the SEC collections unit to do their job. This is not conjecture. The Receiver has stated this to the undersigned time and time again. Therefore, one can only conclude, the Receiver's actions are purely motivated by his intent to usurp the role of the SEC collections unit, about which he verbalized his complete lack of faith.

9. The undersigned's clients, HAROLD SEIGEL, JONATHAN SEIGEL and Relief Defendant, HS MANAGEMENT, are very sympathetic to the victims of the Ponzi scheme alleged to have been orchestrated by Defendant, JOSE AMAN. The undersigned's clients, Defendants, HAROLD SEIGEL and JONATHAN SEIGEL, solely charged with failing to register with the SEC, were *never* charged with Fraud nor participation in the Fraudulent scheme.

10. The undersigned's clients have been *extremely* cooperative with both the SEC and the Receiver, voluntarily spending numerous hours with the Receiver providing the Receiver with information, experts and leads, all of which resulted in the Receiver making substantial recovery for the Investors. Considering the settlement with the SEC, it is unclear what the Receiver hopes to gain by further pursuing the undersigned's clients.

11. Harnessing and collecting assets from co-defendants, in an action brought by the SEC, is not the job of the Receiver. (*See, fn. 2*) The Receiver, appointed by the SEC, was not appointed to go after and seek to collect against the very persons the SEC has already named in their suit (*See fn. 2, 3*). In fact, per the Receivership Order (DE 7 and DE 20), the Receiver's ability to commence litigation not only requires leave of court, but recovery and conservation of

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“Receivership property” can only be done *in consultation with SEC counsel*.³ I would surmise that the SEC has faith and trust in its own collections unit to harness and collect the assets of any judgment it so obtains for the benefit of the victims of the Ponzi scheme.

12. To the contrary, it is the Receiver’s job to expend Receivership funds in a reasonable and cost-effective manner while preserving Receivership property and preventing dissipation, all for the benefit of the Investors. By recklessly continuing in this vein, will only serve to dissipate what little assets remain for the benefit of the investors after application of the Receiver’s fees, particularly after trial. In this light, the Receiver’s actions are most unreasonable and in reckless disregard for the benefit of the investors⁴.

13. To date, Receiver has failed to take action against the undersigned’s clients or otherwise enter global resolution, thwarting and leaving the SEC settlement in limbo and otherwise forcing the undersigned clients to litigate and causing this Court, and all involved, unnecessary resources wherein the undersigned’s clients seek not to. The Receiver has not sought leave of court to file against my clients and to the best of undersigned’s knowledge, has not conferred nor acquired consent of the SEC to recover or collect against the undersigned’s clients, yet the Receiver will not concede. Instead of filing suit, Receiver keeps hemming and hawing, making threats of suit unless the undersigned’s clients give “him” consideration; making

³ Investigate or prosecute claims

- *Leave of this Court is required to commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in his discretion, and in consultation with SEC counsel, recover and/or conserve Receivership Property.*
- *Subject to his obligation to expend receivership funds in a reasonable and cost- effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Entity were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to Counsel for the Commission before commencing investigations and/or actions.*

⁴ Liability of Receiver

- *nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.*

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him look good in the eyes of the Investors. Apparently for the Receiver, it is not enough that he is holding frozen assets in my clients' accounts as well as a collectable coin collection belonging to my client which he can certainly liquidate for the benefit of the Receivership. Furtherance of litigation in this vein will unnecessarily and unreasonably dissipate what little resources and assets remain in the Receivership for the benefit of the Investors after the Receiver's fees. To this end, the undersigned's clients contend it is an abuse of the Receiver's discretion to hold up this settlement and force the parties into litigation just because he does not have faith in the SEC collections unit.

14. The undersigned seeks a Status Conference be held on the Settlement of the claims brought by the SEC against the undersigned's clients.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice has been eserved via CM/ECF on all counsel of record listed below this 6th day of July 2020.

Respectfully submitted,

/EK/

ELLEN M KAPLAN, ESQ

FBN 0875228

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From: Ellen
Sent: Thursday, July 2, 2020 8:43 PM
To: Jeffrey C. Schneider
Cc: Stephanie Reed Traband; WENDY Dohner
Subject: Re: IMPORTANT-SEC v. SEIGEL 2019-CV-80633-RLR

Jeff

The accountings I sent you is all that was received from the Receivership entities relating to the SEC claim. The accountings came from Harold's accountant so it's accurate. All funds stemming from receiver entities went into HS management. Neither Harold or Jonathan received anything (real or personal) directly from Aman Or the entities. Harold paid himself and Jonathan out of HS Management. This spanned the period from 2014-2018. I provided you the the broad sweep information like you asked. The advertising had to do with the marketing for the EAGLE and NDIC program pitched by Harold which was the basis for the claim of participation in the unregistered security. As to the insurance policy, it covered World Wide Diamonds, not HS Management and no clients sent their diamonds to Harold. Rather, they either sent them directly to Aman or Aman's brother went and retrieved them from Canada directly (Bonny's diamond). Their cars are leased. The parkland home is encumbered as you know. I gave you the account information and, other than the frozen accounts of which you are in possession, they ~~_____~~ I don't know what else to tell you. My clients agreed to pay the 3.8 plus interest and penalties for the claim brought by the SEC. What more would they be obligated for under any claim than what they've already agreed to pay the SEC? Even assuming you had a viable claim against them, what you would be seeking is duplicative. ~~_____~~ and spending the investors money to get an empty judgment is for naught. Isn't that the very reason you indicated you weren't going after Cespedes?... since you won't take my word for it I'm not sure whose word you will take. ~~_____~~? If that's what it will take for you to have something to rely on, then I will provide you that. Let me know.
Ellen

Sent from my iPhone

On Jul 2, 2020, at 7:14 PM, Jeffrey C. Schneider <jcs@lklsg.com> wrote:

Ellen:

The answer is still the TRO and the Order Appointing Receiver. You obviously don't want to answer the questions. That speaks volumes.

We will file a motion. The Court can decide.

Have a nice weekend.

Jeff

Jeffrey C. Schneider, PA

Exhibit "A"
to NOTICE