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 *CORRECTED* RESPONSE TO SEIGELS' "NOTICE OF SETTLEMENT STATUS" AND RENEWED MOTION TO COMPEL
(correcting Composite Exhibit A)

Jeffrey C. Schneider, not individually, but solely in his capacity as the Court-appointed receiver (the "Receiver"),[1] hereby responds to the Seigels' Notice of Settlement Status [DE 216] and renews his motion to compel Harold Seigel and H.S. Management Group LLC to comply with their Court-ordered obligations.

Introduction

[1] This Court appointed Mr. Schneider as receiver for Argyle Coin, LLC ("Argyle"). On March 28, 2019, two months before the Receiver's appointment, the Honorable Donald Middlebrooks appointed Mr. Schneider as Corporate Monitor for Defendants Natural Diamonds Investment Co. ("Natural Diamonds") and Eagle Financial Diamond Group, Inc. ("Eagle") in *Round v. Natural Diamonds Investment Co., et al.*, Case No. 18-cv-81151. This Court expanded the Receivership to include NDIC and EFDG [DE 94, 104] and the Receiver thereafter filed a motion to close the Corporate Monitor Action, which was granted.

Although disguised as an update to the Court about the settlement between the SEC and Defendants Harold Seigel and Jonathan Seigel and Relief Defendant H.S. Management Group, LLC, the Notice is really a complaint by the Seigels about the Receiver doing the job for which he was appointed.

The Receiver is not preventing the Seigels from settling with the SEC. The Seigels are free to enter into any settlement they wish with the SEC. The SEC and the Receiver are different, and the claims they possess are different. The SEC is a creature of statute and has statutory claims; the Receiver was appointed by this Court, is an agent of this Court, and has equitable and common law claims. The SEC did not ask for a global settlement that included the Receiver, and the settlement negotiations between the Seigels and the SEC did not include the Receiver. The Receiver learned about the settlement in March, which was apparently *after* the negotiations had been concluded. As of the filing of this pleading, the Receiver has never seen the settlement papers between the SEC and the Seigels and is unaware of the precise terms.

Since the Receiver was told about the settlement of the SEC's claims, the Seigels have requested—better yet, insisted on—a release from the Receiver of the claims that he, too, possesses. The Receiver was appointed to recover funds to provide a recovery to the victims of this Ponzi scheme. [Receivership Order [DE 20] at 4 and 15.] The Receiver is obligated to investigate his own claims, bring those claims (if appropriate), and settle those claims (when appropriate), all for the ultimate benefit of the defrauded investors. [*Id.* at 13.] ***The Seigels received at least $3.8 million from the Ponzi scheme. And the Receiver is still unable to say, because of their failure to account for the funds that they received, as ordered by the Court, whether they—or any third-party transferees—are still in possession of those funds.*** The Receiver is unable to evaluate whether or not to provide a release without that information. It would be reckless and irresponsible for the Receiver to give a release under these circumstances.

In their Notice, the Seigels portray themselves as innocent third parties who merely received some funds from the Ponzi scheme. That is not accurate. Harold Seigel and Jonathan Seigel were owners of Receivership Entities Eagle and Natural Diamonds, both of which were used to defraud hundreds of investors out of more than $30 million. This was confirmed by this Court in its Order of Preliminary Injunction. [DE 40 at 2.] Harold Seigel and Jonathan Seigel were both officers of Natural Diamonds, and Harold Seigel was an officer of Eagle. This, too, was confirmed by this Court's Preliminary Injunction. [*Id.* at 2, 3.] Harold Seigel and Jonathan Seigel both actively solicited and recruited investors into the fraud. This was also confirmed by this Court. [*Id.* at 5, 6.] Harold Seigel signed countless documents on behalf of Eagle. This was also confirmed by this Court. [*See, e.g, id.* at 5.[2]] And Jonathan Seigel made assurances to investors on behalf of Eagle. This was also confirmed by this Court. [*Id.* at 6-7.] Yet the Seigels have not yet fully complied with this Court's TRO and the accounting requirements contained therein.

To demand a release from a court-appointed fiduciary—while simultaneously refusing to fully comply with the Court's accounting orders that would enable that fiduciary to make an informed decision about giving that release—is simply unacceptable. Again, it would be irresponsible for the Receiver to give a release under these circumstances.

The Court's Orders

To be clear, over one year ago, this Court entered two orders: (a) Order Granting Temporary Restraining Order, Asset Freeze, and Other Emergency Relief [DE 12](the "TRO"); and (b) Order Granting Motion for Appointment of Receiver [DE 20] (the "Receivership Order").

In the TRO, this Court ordered Harold Seigel to do three things to account for the millions of dollars that he received for his role in the fraud:

[2] Deposition testimony revealed that Jonathan Seigel also signed documents on behalf of Receivership Entities. The transcript is available if the Court wishes to review it.

> (a) make a sworn accounting to this Court and the Commission of all funds, whether in the form of compensation, commissions, income (including payments for assets, shares or property of any kind), and other benefits (including the provision of services of a personal or mixed business and personal nature) received, directly or indirectly, by [Seigel];
>
> (b) make a sworn accounting to this Court and the Commission of all assets, funds, or other properties, whether real or personal, held by [Seigel], jointly or individually, or for its direct or indirect beneficial interest, or over which it maintains control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and
>
> (c) provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind and wherever situated) in which he (whether solely or jointly), directly or indirectly (including through a corporation, partnership, relative, friend or nominee), either has an interest or over which he has the power or right to exercise control.

[TRO at 19.] Unfortunately, there were two typographical errors in this paragraph in which the Court inadvertently referred to "Aman" rather than "Harold Seigel" in subparagraphs (a) and (b) above. However, in reading the Court's TRO as a whole, it is clear that the Court's intent was for Harold Seigel to make an accounting about the funds and assets that *he* received and that *he* currently has. Harold Seigel, however, attempts to capitalize on the typographical errors by focusing on what was received *by Aman* and on what assets are held *by Aman*. [*See, e.g.*, DE 214.] Harold Seigel provided no details about what *he* received and did not account for *his* disposition of any funds or otherwise fully account for his assets.

As belt and suspenders, this Court issued the same directive to H.S. Management Group, LLC, Harold Seigel's entity through which he received the funds from the Ponzi scheme:

> (a) make a sworn accounting to this Court and the Commission of all funds, whether in the form of compensation, commissions, income (including payments for assets, shares or property of any kind), and other benefits (including the provision of services of a

> personal or mixed business and personal nature) received by H.S. Management directly or indirectly;
>
> (b) make a sworn accounting to this Court and the Commission of all assets, funds, or other properties, whether real or personal, held by H.S. Management, jointly or individually, or for [its] direct or indirect beneficial interest, or over which it maintains control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and
>
> (c) provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind and wherever situated) in which it (whether solely or jointly), directly or indirectly (including through a corporation, partnership, relative, friend or nominee), either has an interest or over which he has the power or right to exercise control.

(TRO at 15-16.)

The directives contained in the TRO are clear, were issued for good reason, and in fact are commonplace in Ponzi scheme cases such as this one: the Court wants to know how much the defendants received, how those funds were spent (if they were), and what the defendants currently possess, directly or indirectly, including through an entity, relative, friend or nominee. It is not uncommon for defendants to transfer money to third parties. It is not uncommon for defendants to park money with nominees. It is not uncommon for defendants to conceal assets by holding them in the names of relatives.

Harold Seigel and his entity were thus required to provide an accounting, under penalties of perjury, of all monies that they received. Harold Seigel and his entity were required to provide an accounting, under penalties of perjury, as to the disposition of those monies (*i.e.*, identify how the funds were spent, *if* they were). And Harold Seigel and his entity were required to provide details, under penalties of perjury, about all assets or accounts currently held by them, solely or jointly with others, or over which they have control or a beneficial interest.

Harold Seigel and his entity have still not complied with the Court's orders

Harold Seigel and his entity did not provide the court-ordered accounting in May 2019 when it was due. They did not do it in May 2020. As a matter of fact, they did not even purport to do it until June 2020, after the Receiver reminded them of their Court-ordered obligations, which was done after they insisted that the Receiver release them of the claims *that he possesses* so they could obtain a global resolution.

And even then, what they submitted was insufficient. The Seigels only accounted for the amount that Harold Seigel's entity (H.S. Management Group, LLC) received from Eagle, Natural Diamonds, and Argyle, which turned out to be $4.4 million, not the $3.8 million identified in the TRO. They passingly identify how H.S. Management allocated the $4.4 million that it received, such as for salaries and advertising, but they did not provide any information beyond that.

In other words, even though Harold Seigel was ordered to identify how much *he* received, the Receiver still has no information about Harold Seigel's salary, commissions, or distributions. The Receiver has no information about the "disposition" of such amounts, as is required under the TRO, or whether funds were transferred to and are being held by third parties. Such third parties would not be "creditors" under the consent judgment being contemplated with the SEC. The Receiver has no information about current assets held by Harold Seigel, including "through a relative, friend or nominee." Such "relatives, friends, or nominees" would likewise not be "creditors" under the consent judgment being contemplated with the SEC.

Receiving this information is critical—especially if the Receiver has to evaluate whether to give the Seigels a release *of his claims*—because the Receiver is aware of a home in Colorado that is worth several million dollars, is unencumbered, and is in the name of Harold Seigel's wife. It is currently being listed for sale for $2.995 million. Investors call and email the Receiver about the property. They ask if Harold Seigel is going to deed over the property to satisfy his debts. The

Receiver still does not know—because of the Seigels' failure to comply with the Court's TRO—if the home is an "asset or property" held by Harold Seigel, or for his "direct or indirect benefit," or "over which he maintains control," directly or indirectly.

The Receiver is also aware that an online diamond auction company called "Lavish Auctions LLC" that markets diamonds is run out of Harold Seigel's home and purportedly managed by his wife. At least one very valuable diamond—a 50 carat white diamond—is similar to a 50 carat white diamond that purportedly served as the collateral for an investment in Eagle. Investors have called and emailed the Receiver about this business, too. They have sent the Receiver copies of their agreements so the Receiver can compare the diamond that supposedly served as collateral with the diamonds on the Lavish Auctions website. *Compare* Contract for Purchase regarding "50+Carat D-Flawless White Diamond" with July 8, 2020 printout from www.lavishauctions.com regarding "50 Carat G White Round Brilliant Diamond," attached as **Composite Exhibit A**.

The Receiver still does not know—because of the Seigels' failure to comply with the Court's TRO—if the auction business is an "asset" held by Harold Seigel, or for his "direct or indirect benefit," or "over which he maintains control," directly or indirectly.[3] The Receiver had been informed that the business was Harold Seigel's business, although his wife is listed in public records as the manager (operating out of their joint home). The Receiver has no other information about ownership of the company. If it is truly owned by his wife, that is another asset that would presumably be outside the reach of any consent judgment to which Harold Seigel agrees, but which may be an asset held for his "direct or indirect benefit" or "over which he maintains control," so it

[3] The Receiver is also aware that Harold Seigel operates two other auction companies: H. Seigel Fine Auctions, Inc. and Rare Colored Diamonds, Inc., but he has no information about them, either.

must be accounted for pursuant to this Court's TRO so the Receiver can make an informed decision about whether or not to provide a release *of his claims*.

In short, Harold Seigel and his entity have never accounted for what they did with the $4.4 million that they received for their role in the fraud. They have not provided an accounting, under penalties of perjury, identifying their current assets, including those held through relatives and nominees. ***They have not provided even one bank statement to the Receiver***. The Seigels are attempting to strongarm the Receiver into signing a release while, at the same time, stonewalling the Receiver on information he needs to make an informed decision about whether or not to do so. Again, it would be irresponsible to give a release under these circumstances.

The proverbial ball is in the Seigels' court

Since March, when the Receiver first learned about the Seigels' settlement with the SEC and was first asked by the Seigels to provide a release of *his claims*, the Receiver has been asking for only one thing: comply with this Court's orders and the accounting requirements therein. In other words, if the Receiver is being asked to give a release, all he asks is that the Seigels first comply with this Court's TRO and provide the accounting that was ordered so that he can make an informed decision about the provision of the release. They have not done this. They remain defiant in their refusal to do this.

The Seigels have refused to provide even one bank statement to the Receiver. The Seigels refuse to confirm, under oath, that do not still have any of that money that they received for their role in the Ponzi scheme. The Seigels refuse to provide a sworn accounting—as they have been ordered to do—of the assets and accounts they currently have, whether solely or jointly, directly or indirectly, or over which they have the power or right to exercise control.

Again, the SEC did not condition its settlement on obtaining a release from the Receiver *of the Receiver's claims*, so the Seigels are free to settle with the SEC on the terms they negotiated

with the SEC. Nobody is preventing them from doing that. But they cannot compel the Receiver to give a release *of his claims* without complying with their obligations under this Court's orders so that he is comfortable that he is fulfilling his obligations by giving such a release.

The discovery red herring

The Seigels claim that the Receiver is bound by the discovery deadlines set by the Court. That misses the mark. There are no claims pending by the Receiver in this case. He is not the plaintiff; he did not file this action. Any claims brought by the Receiver—such as for fraudulent transfer or breach of fiduciary duty—would be separate claims in a separate action with their own deadlines. [DE 20 at 13.] The trial date in this case, and the deadlines associated therewith, relate to the claims brought by the SEC.

The stay recently entered on the SEC's Unopposed Motion to File a Motion to Set Disgorgement and Civil Penalty Amounts applies to the pretrial deadlines in the SEC's case. The Receiver has tasks separate from those of the litigants in this case, and they stem from the Order Appointing Receiver. The Receiver's obligations under the Order Appointing Receiver are ongoing.

The Seigels complain that the Receiver is "hemming and hawing" or otherwise impeding their settlement of the SEC's claims. That is not accurate. Again, the Seigels are free to enter into any settlement they wish with the SEC. But if the Seigels are insisting on a release from the Receiver *of the Receiver's claims*, the Receiver is certainly willing to consider providing one—so long as the Seigels first comply with their obligations under the Court's orders so the Receiver has made that decision with the knowledge he needs in order fulfill his own obligations.

Just so the Court is aware, only one bank account of the Seigels is frozen pursuant to court order, and it contains less than $100,000 in it (far less than the $4.4 million that they received). A coin collection located at Receivership Entities' premises has also been secured by the Receiver,

and its value is also estimated at less than $100,000. Under these circumstances, the questions the Receiver are asking are entirely appropriate and, indeed, necessary prior to providing a release. When a bank or other business is asked to give a release, it will not do so without first being presented with financials sufficient to make an informed decision about the person's financial wherewithal. No bank or business will merely take the word of the borrower. A court-appointed fiduciary is no different.

As noted in the Receiver's recently-filed Motion to Compel, the Seigels initially refused to provide any accounting at all. When the Receiver reminded them that they were ordered by this Court to do so, they provided a mere summary without any documentary support and, more importantly, ***they did not fully comply with the requirements set forth in the TRO***. Nor did they comply with the Receiver's follow up requests. Nor did they provide a single bank statement.

Even now, instead of complying with this Court's orders, the Seigels have gone on a campaign to malign the Receiver to force him to do what they want. This is nothing short of outrageous. The Receiver is a court-appointed fiduciary. He, too, has obligations. He, too, has claims. Defrauded victims—some of whom are living on a fixed income; some of whom sent their life savings to the Receivership Entities—contact the Receiver on a regular basis. The Receiver is merely doing his job, and to do his job, he requires information from the Seigels before releasing them of *his* claims. If they do not want to provide that information, the Receiver will file another motion to compel, but that does not prevent them from settling with the SEC.

The Receiver receives calls and emails regularly from investors who want to know what happened to the money that was stolen and when will they be receiving distributions. They want to know if they will be made whole. The Receiver owes these investors a duty to at least "peek behind the curtain" of the purported poverty the Seigels now claim while they simultaneously demand a release of the Receiver's claims. The Receiver cannot just take Harold Seigel's word

for it that Harold Seigel has no assets. And he should not have to. The TRO requires Harold Seigel and his entity to provide an accounting, under penalties of perjury, and they have yet to fully comply with those requirements. The Order Appointing Receiver requires them to cooperate with the Receiver.

Just so there is no uncertainty, the Receiver is willing to consider releasing the Seigels, and he is willing to do so immediately, but the Seigels must first:

a. fully comply with the accounting requirements contained in the TRO, without trying to capitalize on any typographical errors contained therein;

b. produce all documents that support that accounting, including bank statements for the accounts identified therein and information related to the website/auction companies and the diamonds marketed thereon.

If the Seigels provide this information ***within 7 days***, the Receiver will make a decision as to whether to provide a release ***within 7 days thereafter***. Without this information, the Receiver simply does not have sufficient information to make an informed decision about whether or not to deliver a release of his claims, as he has told the Seigels on several occasions.

Local Rule 7.1 Certification. In attempting to achieve the above compliance after the Court's denial of his prior Motion to Compel without prejudice to renew it, the Receiver requested that the Seigels fully comply with their obligations under the TRO and produce the supporting documentation and advised that, if they did not, the Receiver would renew his motion. The Seigels have failed to fully comply, so the Receiver is renewing his motion as he advised them he would do.

WHEREFORE, the Receiver requests that this Court enter an order compelling the Seigels to fully comply with the accounting requirements contained in the TRO, without trying to capitalize on any typographical errors contained therein (and specifically noting that Harold Seigel

is to account for monies received by him and his assets and any disposition thereof) and to produce all documents that support the Seigels' accounting, including bank statements for the accounts identified therein and information related to the website/auction companies and the diamonds marketed thereon, and granting such other and further relief as this Court deems just and proper.

Dated July 8, 2020

Respectfully submitted,

LEVINE KELLOGG LEHMAN SCHNEIDER + GROSSMAN LLP
201 South Biscayne Boulevard
Citigroup Center, 22nd Floor
Miami, FL 33131
Telephone: (305) 403-8788
Facsimile: (305) 403-8789

By: s/Stephanie Reed Traband
STEPHANIE REED TRABAND
Florida Bar No. 0158471
srt@lklsg.com
mt@lklsg.com
Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 8, 2020, the foregoing document was electronically filed 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 in the manner specified in the service list below.

By: */s/ Stephanie Reed Traband*
Stephanie Reed Traband, Esq.

SERVICE LIST

Via CM/ECF

Counsel for Securities and Exchange Commission:
Amie Riggle Berlin, Esq.
Senior Trial Counsel
Linda S. Schmidt, Esq.
Senior Trial Counsel
Securities and Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Email: berlina@sec.gov

Counsel for Harold Seigel, Jonathan Seigel, and H.S. Management Group LLC:
Ellen M. Kaplan, Esq.
Law Office of Ellen M. Kaplan P.A.
9900 W Sample Rd Fl 3
Coral Springs, Florida 33065
Email: ellenkaplanesq@aol.com

Counsel for Gold 7 of Miami, LLC:
Aaron Resnick, Esq.
Law Offices of Aaron Resnick, P.A.
100 Biscayne Boulevard, Suite 1607
Miami, Florida 33132
E-mail: aresnick@thefirmmiami.com

Counsel for Winners Church, Frederick Shipman, and Whitney Shipman:
Carl Schoeppl, Esq.
Terry A.C. Gray, Esq.
Schoeppl Law, P.A.
4651 North Federal Highway
Boca Raton, Florida 33431
Email: carl@schoeppllaw.com
tgray@schoeppllaw.com

Via Email

Jose Aman, pro se
E-mail: joseaman123@gmail.com

Composite

EXHIBIT A

EAGLE FINANCIAL DIAMOND GROUP INC

125 Worth Ave Suite 203 Palm Beach FL 33480

CONTRACT FOR PURCHASE

This Contract for Purchase Agreement is entered into between the following parties: Eagle Financial Diamond Group, Inc. (Eagle) a Florida company located at 125 Worth Avenue, Suite 203, Palm Beach, Florida, 33480 and [redacted] an individual located at: [redacted] agrees to enter into a one-time partnership with Eagle for the purchase of a certain Rough Diamond. Said diamond is herein described as: a 50+Carat D-Flawless White Diamond. Said Rough Diamond is valued at: EIGHT MILLION ($8,000,000.00). Amount of investment by [redacted] is $41,705.40.

The Terms of this Agreement are: The investment shall take place over an eighteen (18) month period whereby Eagle will cut, polish, and grade said Rough Diamond. Eagle requires a certain amount of time (to be determined solely at the discretion of Eagle) to sell said parcel at profit and by way of this Contract warrants a 100% return to [redacted] on said investment in addition to return of the initial principal.

Harold Seigel, Partner

[redacted]

March 30/2016
Date

March 30, 2016
Date

Eagle Financial Diamond Group, Inc.
Wire Instructions

Bank of America 4364 State Road 7, Lake Worth, Florida 33467

Checking Account [redacted] Routing # [redacted]

SWIFT Code (International Transfers): [redacted]

LAVISH AUCTIONS

Menu

Featured Auction

Register to Bid Online

50 Carat G White Round Brilliant Diamond

Estimated Value: $10,000,000.00 USD

Starting Price: $7,000,000.00 USD

GIA Report ▶ View

Carat	50
Cut	Round Brilliant
Color	G White
Clarity	VVS2

Video ▶ View

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