

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

Case No. 8:19-cv-00886-VMC-SPF

OASIS INTERNATIONAL GROUP,
LIMITED, ET AL.,

Defendants,

and

MAINSTREAM FUND SERVICES,
INC., ET AL.,

Relief Defendants.

**PLAINTIFF CFTC'S RESPONSE TO RELIEF DEFENDANT MAINSTREAM'S
RESPONSE IN OPPOSITION AND UNITED STATES' REPLY**

Pursuant to this Court's order (Doc. #221), Plaintiff Commodity Futures Trading Commission (CFTC) files this response addressing the five questions posed by the Court with respect to Relief Defendant Mainstream Fund Services Inc.'s (Mainstream) Response in Opposition (Doc. #218) and the United States' Reply (Doc. #220). Since Mainstream filed its opposition and the Court entered its order on January 14, 2020 (Doc. #221), Mainstream and the CFTC have engaged in detailed discussions and Mainstream produced additional documents to the CFTC. From the CFTC's perspective, this exchange of information has advanced the likelihood of resolving the issue of Mainstream's continued status as a relief defendant in this litigation without additional formal discovery. Below, the CFTC responds to the Court's five

questions in its Order (Doc. #221): (1) the scope of the outstanding issue in the case regarding Mainstream; (2) the CFTC's position on a partial lift of the stay; (3) the CFTC's position as to the United States' representations in its Reply; (4) other issues or arguments; and (5) the steps the CFTC would take if the Court granted a temporary and partial lifting of the stay.

1. THE OUTSTANDING ISSUE REGARDING MAINSTREAM IS WHETHER IT HAS A RIGHT TO ANY RETAINED OASIS FUNDS.

The narrow issue as to Mainstream—a fund-administration firm that provided services to Defendant Oasis International Group, Ltd. (Oasis) from September 2013 until April 2019—as a relief defendant in this lawsuit is what amount of funds it retained from Oasis and whether it has a right to any of those funds. The Court may grant equitable relief against a relief defendant if it is established that the relief defendant received ill-gotten funds or property and does not have a right to those funds or property. *CFTC v. Emini Experts, LLC*, No. 6:14-cv-1766-Orl-40GJK, 2016 WL 7666148, at * 7 (M.D. Fla. Mar. 29, 2016), report and recommendation adopted by 2016 WL 3098199, at * 1 (M.D. Fla., June 3, 2016).

As alleged by the CFTC in both its Complaint and its First Amended Complaint, Mainstream received, directly or indirectly, over \$36 million¹ from hundreds of members of the public (pool participants) for investment in Oasis' fraudulent forex pools. Oasis' only source of funds was from pool participants. Almost all of Oasis' funds passed through Mainstream before being sent to an offshore forex trading account or being used to make Ponzi-like payments to other pool participants and/or being misappropriated by Oasis' principals, who are defendants in this action (two of whom have now been criminally charged by the United States). *See* Doc. #1 at ¶¶ 1, 3, 19-27, and 61-63; and Doc. #110 at ¶¶ 1, 3, 19-27, and 91-95.

¹ This number accounts for funds deposited into Mainstream-managed Oasis accounts by pool participants, but evaluation of accounts is ongoing and it is possible that Mainstream received, indirectly, as much as another \$20 million in pool funds from other Oasis-related entities.

Since this matter was stayed in July 2019, the CFTC has been diligently examining bank and Mainstream records to determine the amount of Oasis funds Mainstream retained and whether Mainstream has a right to these funds. Based on a review of relevant and available bank and other records, it appears that between mid-April 2014 and March 9, 2019, Mainstream received approximately \$36,500,000 in Oasis funds directly from pool participants,² and these records show that Mainstream retained approximately \$6,808,000 of these Oasis funds.³ After the CFTC filed the Complaint, Mainstream transferred \$6,012,397.78 of Oasis funds to Burt Wiand, the Court-appointed receiver (Receiver), leaving approximately \$795,600 of Oasis funds still potentially retained by Mainstream. The CFTC understands Mainstream's position to be that it has a right to a portion (approximately 25%) of the retained Oasis funds and it has now provided documents to support this position. As to the remaining funds, the CFTC does not know Mainstream's position on these funds and whether Mainstream will claim a right to these funds or endeavor to show that they were not retained by Mainstream but instead passed through Mainstream and were used for Oasis' benefit. The CFTC has requested information about these funds from Mainstream.

On January 9 and January 15, 2020, the CFTC and Mainstream discussed additional documents and information the CFTC would need to resolve its claims against Mainstream as a relief defendant. On January 15 and January 20, 2020, Mainstream provided additional information, including a partial accounting of retained Oasis funds. On January 23 and 24, 2020, the CFTC made requests to Mainstream for additional information about, among other things, transfers to Mainstream from an international account Mainstream held for Oasis and for which

² As stated in the previous footnote, it is possible that Mainstream received, indirectly, an additional \$20 million in pool funds from other Oasis-related entities.

³ The CFTC and Receiver are still in the process of obtaining relevant bank records, some of which relate to overseas accounts. Thus, the amount of Oasis funds that were received by or retained in Mainstream accounts could be subject to change.

Mainstream has incomplete bank records. The CFTC is in the process of reviewing materials provided by Mainstream and identifying any additional information it may need from Mainstream to determine what Oasis funds it retained and whether it has a right to those funds. Once the CFTC's review is complete and it obtains all necessary information from Mainstream, then the CFTC anticipates being able to provide Mainstream with a draft consent order that effects settlement of the charges against Mainstream as a relief defendant in this lawsuit without a trial on the merits.⁴

2. THE CFTC DOES NOT OPPOSE A PARTIAL LIFT OF THE STAY BUT BELIEVES THAT MAINSTREAM'S STATUS AS A PARTY MAY BE RESOLVED WITHOUT THE NEED FOR DISCOVERY.

The CFTC is not opposed to a partial and temporary lifting of the stay so that the CFTC and Mainstream may proceed with discovery. However, as stated above, Mainstream has been providing documents and information sought by the CFTC on an informal basis over the past few weeks. Thus, the CFTC believes that Mainstream's status as a relief defendant in this lawsuit could be resolved without it. The CFTC further represents to the Court that it can and will continue to work with Mainstream if the matter remains stayed.

3. THE CFTC AGREES WITH THE UNITED STATES' REPRESENTATIONS IN ITS REPLY BRIEF CONCERNING MAINSTREAM'S ACCOUNTING.

The CFTC agrees with the United States' representations in its reply brief (Doc. #220) that Mainstream did not provide an accounting that complies with the Court's Statutory Restraining Order (SRO) (Doc. #7) and that the CFTC lacked sufficient information from Mainstream to substantiate whether Mainstream had a claim to retained Oasis funds. Based on discussions between the CFTC and Mainstream, the CFTC understands that Mainstream does not

⁴ Prior to submitting a proposed consent order to the Court, counsel for the CFTC must seek authority from the Commission, acting as a deliberative body, to settle this litigation.

agree with the CFTC's position or the United States' representations in its reply brief that Mainstream has not yet provided the "full accounting" contemplated by the SRO, because in lieu of preparing an accounting, Mainstream produced documents that satisfied the obligation. The CFTC acknowledges that Mainstream has provided thousands of pages of documents to the Receiver. Further, since the Court's order on January 14, 2020, Mainstream provided additional information to the CFTC regarding the retained Oasis funds, including a partial accounting. As previously stated, the CFTC is awaiting additional information from Mainstream, and it is in the process of reviewing the materials Mainstream has produced and identifying any additional information it may need from Mainstream to resolve its status as a relief defendant in this lawsuit.

4. AT THIS TIME, THERE ARE NO OTHER RELATED ARGUMENTS OR ISSUES BEARING ON THIS MATTER.

At this time, the narrow issue bearing on this matter concerns an examination of Mainstream's right to the Oasis funds that it retained. From the CFTC's perspective, the parties are working diligently to resolve this issue. If other related arguments and issues arise as a part of that process, then the CFTC will promptly notify the Court.

5. IF THE COURT LIFTS THE STAY, THEN IT WOULD NOT CHANGE THE CFTC'S INTENTIONS TO WORK TOWARDS RESOLVING MAINSTREAM'S STATUS AS A RELIEF DEFENDANT.

As stated previously, the CFTC believes the parties can and will continue working toward resolution while the matter remains stayed and will similarly continue to do so if the stay is lifted. Because the parties have thus far amicably agreed to exchange information outside of formal discovery, additional documents that were needed by the CFTC to complete its review when the court issued its order on January 14, 2020 have now been obtained and are being reviewed. The CFTC's review of additional information about transfers into Mainstream's

accounts has alerted it to the need for yet additional documents from Mainstream to develop a full picture of the Oasis funds transferred to and/or retained by Mainstream. It is the CFTC's hope that these additional documents will be produced by Mainstream on a voluntary basis, in which case there would be no need for formal discovery.

Should Mainstream be unable or unwilling to produce these additional documents, or if a review of these documents so necessitates, then the CFTC may be required to issue requests for production of documents (RFPDs) including, but not limited to, bank records, communications, and other records to substantiate retained Oasis funds. If after issuing RFPDs, the CFTC is still unable to fully understand the nature of the retained Oasis funds, then it will seek to issue interrogatories, or even to take depositions of Mainstream representatives and Oasis' primary contact with Mainstream, criminal defendant Joseph Anile.

From the CFTC's perspective, the parties are working diligently to resolve this matter. The CFTC respectfully requests that if the Court extends the stay as requested by the United States, then it also enter an order granting the CFTC (or Mainstream) leave to move the Court for further relief, such as submission of a proposed consent order or a motion to partially lift the stay if the parties come to an impasse and are unable to resolve this matter without conducting discovery.

Dated: January 24, 2020

Respectfully submitted,

**COMMODITY FUTURES TRADING
COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2020, I filed a copy of the foregoing with the Clerk of the Court via the CM/ECF system, which served all parties of record who are equipped to receive service of documents via the CM/ECF system.

I hereby certify that on January 24, 2020, I provided service of the foregoing via electronic mail to:

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I hereby certify that on January 24, 2020, I provided service of the foregoing via electronic mail to the following unrepresented party:

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PRO SE DEFENDANT