

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
OASIS INTERNATIONAL GROUP)
LIMITED, et al.,)
)
Defendants;)
)
and)
)
MAINSTREAM FUND SERVICES, INC,)
et al.,)
)
Relief Defendants.)
_____)

Case No. 8:19-CV-886-T33-SPF

**DEFENDANTS JOHN J. HAAS' AND SATELLITE
HOLDINGS COMPANY'S RESPONSE AND OPPOSITION
TO THE RECEIVER'S MOTION TO APPROVE
PRE-SUIT CLAWBACK PROCEDURES AND MEMORANDUM OF LAW**

COME NOW, the defendants, John J. Haas [hereinafter "Mr. Haas"] and Satellite Holdings Company [hereinafter "SHC"] [hereinafter, collectively, "Defendants"], by and through the undersigned counsel, and hereby respond to and oppose the Receiver's Motion to Approve Pre-Suit Clawback Settlement Procedure (Doc. 237). In support thereof, Defendants state as follows:

I. PROCEDURAL HISTORY

On April 15, 2019, the Commodity Futures Trading Commission [hereinafter "CFTC"] filed their original Complaint with the Court. Doc. 1

The Complaint alleged, *inter alia*, that Defendants Michael J. DaCorta, Joseph S. Anile, II, and others used entities, including Oasis International Group and Oasis Management, LLC [hereinafter, collectively, “Oasis companies”], to perpetuate a Ponzi scheme against approximately 700 investors and/or lenders. In sum, Defendants DaCorta and Anile conned Mr. Haas and others to “loan” money to various entities, all of which used variations of the name Oasis. The Oasis companies would purportedly invest the money in foreign currency (“forex”) trading and were guaranteed to make a profit. Mr. Haas was not an employee of the Oasis companies. Mr. Haas was the owner and director of a separate entity, SHC. As set forth below, Mr. Haas had no knowledge or involvement with how Defendants DaCorta and Anile invested the money once it was loaned to the Oasis companies. Moreover, Mr. Haas did not engage in any fraud or violations of the law.

On April 15, 2019, the CFTC filed an Emergency *Ex Parte* Motion for a Statutory Restraining Order, Preliminary Injunction, and Other Equitable Relief and Memorandum in Support. Doc. 4. On this same date, at the request of the CFTC, the Court appointed the Receiver. Doc. 7.

At a hearing on June 6, 2019, the Receiver’s counsel represented that the undersigned would be allowed to access data that the Receiver had obtained from the Oasis companies [hereinafter “Oasis data”]. Doc. 99. No qualifications on that offer were made to the Court or counsel during the hearing.

On July 11, 2019, the Court entered a Consolidated Receivership Order (Doc. 177), which combined and superseded two prior orders (Docs. 7 & 44) and is now the operative document governing the Receiver’s activities.

On June 12, 2019, the CFTC filed the First Amended Complaint. Doc. 110.

On June 24, 2019, the Defendants filed a Response in Opposition to the CFTC's Motion for Preliminary Injunction, along with supporting exhibits, including sworn affidavits from witnesses. Doc. 143.

On October 23, 2019, the Receiver agreed to provide the Oasis data if the undersigned agreed to an unduly restrictive protective agreement. Provisions in the agreement included agreeing that a Federal Rules of Civil Procedure applied to the matter. The Receiver's proposed agreement also required the return of the data upon the Receiver's demand, regardless of whether related civil or criminal matters were pending against Mr. Haas at the time. Counsel for co-defendant Raymond P. Montie III asked the Receiver if the Receiver had required the CFTC, the plaintiff herein, to sign an identical agreement, however, the Receiver never produced such an agreement between the CFTC and the Receiver. To date, the Receiver's counsel has neither provided the Oasis data as represented to the Court during the June 6, 2019, hearing, nor has the Receiver's counsel advised the Court that its representation during the June 6, 2019, hearing will not be honored.

On February 28, 2020, the Receiver filed the Receiver's Motion to Approve Pre-Suit Clawback Settlement Procedure. Doc. 237.

II. MEMORANDUM OF LAW AND ARGUMENT

The Court has extremely broad powers to supervise a receivership and to determine the appropriate actions to be taken in the administration of the receivership. *See S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986).

In the Receiver's Clawback Motion, the Receiver seeks pre-suit approval from this Court for certain procedures and methods, without providing definitive information. For

example, the Receiver proposes sending certain individuals, whom the Receiver will select in the future, a proposed Clawback letter that is attached to the motion. The Receiver further proposes that the individuals to whom the Clawback letter is sent will have “a limited time” to respond. However, the Receiver’s motion fails to define what a limited time is, and whether the limited time is reasonably calculated to conserve the assets of the estate for the benefit of the victims of the alleged Ponzi scheme. In sum, the Receiver’s motion fails to provide facts which permit such a conclusion.

Moreover, the allegations set forth in the Receiver’s Clawback Motion are insufficient. In an effort to justify the relief sought by the Receiver in the instant motion, the Receiver has set forth the fact that Defendant Anile pled guilty to federal criminal offenses related to the scheme. Doc. 237 at 3-4. The Receiver also cites to the fact that a grand jury has recently returned an indictment against Defendant DaCorta related to this scheme, however, the Receiver aptly concedes that “an indictment is not evidence” that this Court can rely on. Doc. 237 at 4-5. Defendant Anile’s guilty plea and the grand jury’s indictment of Defendant DaCorta cannot refute Mr. Haas’ legitimate and well-supported position that he was a victim, and not a perpetrator, of the scheme executed by Defendant Anile, Defendant DaCorta, and others.

As set forth in Defendants’ Response in Opposition to the CFTC’s Motion for Preliminary Injunction, and the supporting exhibits annexed thereto (Doc. 143), on April 18, 2019, Special Agent Shawn Batsch, of the Internal Revenue Service-Criminal Investigations, and Special Agent Ric Volp of the Federal Bureau of Investigation [hereinafter “FBI”], interviewed Defendant DaCorta. During this interview, Defendant DaCorta stated the following concerning Mr. Haas:

John Haas brings IRA money to Oasis. He lives in New York. Haas does not know about the FOREX losses.

Defendant DaCorta also ended his interview by reaffirming that the investigators needed to leave Mr. Haas and others “out of this as they had nothing to do with the fraud.” In sum, the main perpetrator of the Ponzi scheme alleged by the CFTC in this case confessed to investigators that Mr. Haas knew nothing of the fraud.

Prior to the filing of the Receiver’s Clawback Motion, the Receiver contacted the undersigned to determine if Mr. Haas objected to the motion. In response, the undersigned reviewed the Receiver’s Clawback Motion and informed the Receiver’s counsel that without the benefit of seeing the information that the Receiver relied on to support the allegations in the motion, Mr. Haas was unable to consent to the motion. This remains the case. As noted above, the Receiver has not provided the undersigned with the Oasis data and has only offered to provide the data with unduly restrictive conditions or “strings attached.” The allegations in the Receiver’s Clawback Motion are conclusory and insufficiently supported. For instance, the Receiver claims that the fraudulent representations that Defendant Anile admitted to “are consistent with the Receiver’s review of the defendants’ communications with investors, including emails, promotional materials, and recorded marketing calls.” Doc. 237 at 4. However, the Receiver fails to provide or describe any such communications involving Mr. Haas.

Because Mr. Haas maintains his position that he is a victim of the Ponzi scheme perpetrated by Defendant DaCorta, Defendant Anile, and others, Mr. Haas also objects to the Receiver’s characterization in the instant motion that Mr. Haas was an “insider” in the scheme. As noted, Mr. Haas was kept completely in the dark about the scheme. Further still, Mr. Haas

objects to the implication in the Receiver's Clawback Motion that Mr. Haas is responsible for the scheme simply because Defendants DaCorta and Anile are being criminally prosecuted. Such "guilt by association" assumptions must be rejected by the Court.

Based on the foregoing, the Court should not give the Receiver a blank check to determine what is reasonable for the preservation of assets of the estate. The Receiver's Clawback Motion is, in essence, a request for another blank check.

III. CONCLUSION

Wherefore, the Defendants, Mr. Haas and SHC, request that this Court deny the Receiver's Motion to Approve Pre-Suit Clawback Settlement Procedure (Doc. 237).

Respectfully submitted this 13th of March, 2020.

/s/ Andrew C. Searle, Esq.

ANDREW C. SEARLE, ESQ.

Florida Bar No: 0116461

A. BRIAN PHILLIPS, P.A.

912 Highland Avenue

Orlando, Florida 32803

Telephone: (407) 872-0777

Telecopier: (407) 872-0704

Andrew.Searle@phillips-law-firm.com

/s/ A. Brian Phillips, Esq.

A. BRIAN PHILLIPS, ESQ.

Florida Bar No: 0067113

A. BRIAN PHILLIPS, P.A.

912 Highland Avenue

Orlando, Florida 32803

Telephone: (407) 872-0777

Telecopier: (407) 872-0704

Brian.Phillips@phillips-law-firm.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on March 13, 2020, I filed a copy of the foregoing with the Clerk of the Court via the CM/ECF system, which served all parties to this case who are equipped to receive service of documents via that system.

I FURTHER CERTIFY on March 13, 2020, I provided service of the foregoing via electronic mail or U.S. mail to:

Gerard Marrone
Law Office of Gerard Marrone P.C.
66-85 73rd Place
Second Floor
Middle Village, New York 11379
gmarronelaw@gmail.com
Counsel for Defendant Joseph S. Anile, II

Michael J. Dacorta
13313 Halkyn Point
Orlando, Florida 32832
cdacorta@yahoo.com

Francisco "Frank" Duran
535 Fallbrook Drive
Venice, Florida 34292
Fduran7@gmail.com

s/ A. Brian Phillips
A. Brian Phillips, Esq.