

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.

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**PLAINTIFF’S MOTION FOR LIMITED RELIEF FROM THE  
STAY TO CONDUCT DISCOVERY AS TO NON-PARTY ATC BROKERS, LTD.  
AND RELATED NON-PARTY ENTITIES AND INDIVIDUALS**

**I. INTRODUCTION**

On April 15, 2019, Plaintiff Commodity Futures Trading Commission (“CFTC”) filed an emergency *ex parte* action to halt an approximately \$75 million Ponzi scheme orchestrated by Defendants, who allegedly violated anti-fraud and registration provisions of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.* (2018) (“CEA”), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. pts. 1-190 (2020). Doc. ##1-4. That same day, for good cause shown, this Court entered a statutory restraining order, which among other things, prohibited the withdrawal, transfer, removal, dissipation, and disposal of assets by the eight Defendants and nine Relief Defendants, and appointed a receiver, Burton W. Wiand

(“Receiver”). Doc. #7. The Oasis Ponzi scheme involved Defendants’ solicitation and misappropriation of money from over 700 U.S. residents (“pool participants”) for pooled investments in retail foreign currency contracts (“forex”). As alleged, pool funds were transferred to a forex trading account in the United Kingdom. Doc. #1 at ¶¶ 19, 28.

On June 26, 2019, the United States intervened and moved this Court for a stay of all proceedings, including the parties’ discovery, to prevent harm to its related federal criminal investigations of the individual defendants.<sup>1</sup> Doc. ##148, 149. This Court granted the United States’ motion on July 12. Doc. #179. The United States has requested, and this Court has granted, several extensions of the stay. *See* Doc. ##215, 228, 282, 290, 353, and 354. The stay is currently scheduled to expire on July 26, 2021. Doc. #354. The stay does not apply to the Receiver’s activities. *See* Doc #179.

On March 31, 2021, the Receiver filed a motion to approve his engagement of contingency counsel for the purpose of further investigating and pursuing claims against ATC Brokers, Ltd. (“ATC UK”) and related individuals and entities (“ATC Motion”). Doc. #385. ATC UK is a United Kingdom “brokerage firm that serves the forex industry from its headquarters in London and operations in the U.S.” *Id.* at FN1. In his ATC Motion, the Receiver alleges, among other things, facts that indicate ATC UK may have been complicit in the fraud perpetrated by Oasis and its principals. *Id.* at 8-9. On April 20, the Court granted the Receiver’s ATC Motion. Doc. #388.

ATC UK is affiliated with ATC Brokers (“ATC US”), based in Glendale, California. ATC US is registered as an introducing broker with the CFTC and listed as a forex firm and member with the National Futures Association (“NFA”), a self-regulatory organization

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<sup>1</sup> Thus far, the United States has criminally charged two of the five individual defendants in this case. *See U.S. v. Joseph S. Anile II*, 8:19-cr-334-T-35-CPT, M.D. Fla.; and *U.S. v. Michael DaCorta*, 8:19-cr-605-T-02CPT, M.D. Fla.

designated by the CFTC as a registered futures association. *See* Doc. #1 at 34. David Manoukian (“Manoukian”) is the Chief Executive Officer of ATC US and is registered as an associated person of ATC US with the CFTC and listed as a principal and forex associated person of ATC US with NFA. As CFTC registrants, the CFTC has regulatory responsibilities associated with ATC US and Manoukian—neither of whom are currently defendants in this action.

For reasons further discussed below, the CFTC requests limited relief from the stay in order to conduct third-party discovery related to the issues raised by the Receiver’s ATC Motion.<sup>2</sup>

## **II. STATEMENT OF THE PRECISE RELIEF REQUESTED**

The CFTC moves this Court for an order granting limited relief from the stay of this litigation such that the CFTC may issue Federal Rule of Civil Procedure 45 subpoenas to the ATC Entities, as well as to any other non-party entities and individuals the CFTC believes likely to possess relevant information related to claims and possible defenses involving the ATC Entities.

## **III. BASIS FOR THE REQUEST**

Due to the stay currently in place, the CFTC is unable to conduct third-party discovery pursuant to the Federal Rules of Civil Procedure as to facts relevant to the claims and possible defenses raised in this matter, including the involvement of the ATC Entities in any violations of the CEA or Regulations.

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<sup>2</sup> During its pre-filing investigation, the CFTC issued requests to ATC US and ATC UK for production of, among other things, communications with the various defendants. Initially, in September 2018, ATC US represented to the CFTC that both ATC US and ATC UK “have no affiliations with the aforementioned entities,” including Oasis International Group, Ltd. Upon further inquiry, ATC UK subsequently produced documents to the CFTC, but the production contained very few communications with Defendants. The Receiver’s ATC Motion revealed the existence of significantly more relevant documents than the ATC Entities produced to the CFTC, highlighting the need for the requested third-party discovery.

#### IV. MEMORANDUM IN SUPPORT OF THE REQUEST

The Receiver's ATC Motion includes information that is relevant to the claims and defenses at issue in this litigation—including the involvement of the ATC Entities in the conduct at issue in the CFTC's claims. This information was not previously produced by the ATC Entities in their response to the CFTC's requests, despite being responsive. Moreover, the CFTC has primary regulatory authority over ATC US and Manoukian.

Without the requested relief, the CFTC is unable in this action to conduct and/or participate in discovery against the ATC Entities as it relates to existing claims and potential defenses, while the Receiver investigates and potentially prosecutes claims against them. This would result in piecemeal and inefficient use of judicial, Receiver, and prosecutorial resources as the CFTC would be forced to wait until the expiration of the stay to engage in third-party discovery related to the ATC Entities, likely after the Receiver has completed all or substantially all its discovery related to the ATC Entities. Further, the CFTC may then be in a position to have to amend its complaint to add claims and/or parties, and litigate such claims, after the Receiver has brought similar claims, potentially resulting in inconsistent and duplicative litigation.<sup>3</sup> Finally, the ATC Entities' relationship with Defendants began as early as 2015, thus potentially implicating various statutes-of-limitations defenses if the CFTC is not able to conduct the requested discovery.

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<sup>3</sup> In addition, monetary relief obtained by the CFTC against the ATC Entities would not be diminished by expenses of the Receiver or contingency counsel.

**V. CONCLUSION**

The CFTC respectfully requests that this Court issue an order granting the CFTC the ability to issue Rule 45 subpoenas to the ATC Entities, as well as to any non-party entities and individuals the CFTC believes likely to possess relevant information to claims and possible defenses involving the ATC Entities.

Dated: April 28, 2021

Respectfully submitted,

**COMMODITY FUTURES TRADING  
COMMISSION**

By: /s/ Jennifer J. Chapin  
Jeffrey C. Le Riche, [jleriche@cftc.gov](mailto:jleriche@cftc.gov)  
TRIAL COUNSEL  
Jennifer J. Chapin, [jchapin@cftc.gov](mailto:jchapin@cftc.gov)  
J. Alison Auxter, [auxter@cftc.gov](mailto:auxter@cftc.gov)  
Attorneys for Plaintiff  
COMMODITY FUTURES TRADING  
COMMISSION  
2600 Grand Blvd., Suite 210  
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(816) 960-7700  
(816) 960-7751 (fax)

**LOCAL RULE 3.01(G) CERTIFICATION**

I hereby certify that on April 23 and 26, 2021, I conferred via email with all parties of record to this action to determine whether any of them opposed this motion. The motion was unopposed by all parties, except that Pro Se Defendant Michael DaCorta stated that his “non[-]opposition is contingent upon [his] questions [in the email] being presented to the court,” and requested that the CFTC “provide the court [his] entire email.” Accordingly, Mr. DaCorta’s April 27, 2021 email is attached as **Exhibit A**.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2021, 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 April 28, 2021, I provided service of the foregoing via electronic mail to:

Gerard Marrone  
Law Office of Gerard Marrone P.C.  
66-85 73rd Place  
Second Floor  
Middle Village, NY 11379  
[gmarronelaw@gmail.com](mailto:gmarronelaw@gmail.com)

**COUNSEL FOR DEFENDANT JOSEPH S. ANILE, II**

I hereby certify that on April 28, 2021, I provided service of the foregoing via electronic mail to the following unrepresented parties:

Michael J. DaCorta  
[mdacorta64@yahoo.com](mailto:mdacorta64@yahoo.com)  
(cc to his federal public defenders  
[Adam.Allen@fd.org](mailto:Adam.Allen@fd.org),  
[Jessica.Casciola@fd.org](mailto:Jessica.Casciola@fd.org))  
**PRO SE DEFENDANT**

Francisco “Frank” Duran  
[fduran7@gmail.com](mailto:fduran7@gmail.com)  
**PRO SE DEFENDANT**

**Chapin, Jennifer**

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**From:** mdacorta64@yahoo.com  
**Sent:** Tuesday, April 27, 2021 10:20 AM  
**To:** Chapin, Jennifer  
**Cc:** Adam Allen (Adam\_Allen@fd.org); Jessica\_Casciola@fd.org; Auxter, Alison  
**Subject:** [EXTERNAL] Re: Re: CFTC v. Oasis International Group, Case 8:19-cv-00886-VMC-SPF

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Dear Ms. Chapin,

Please provide the court my entire email.

After much consideration I welcome your motion to perform a fishing expedition in regards to our relationship with ATC, however, since I have been unable to retain counsel for this matter, due to the seizure of all company and personal assets over two years ago, my non opposition is contingent upon my questions below being presented to the court.

- 1) Why is the court allowing a private law firm to be retained to conduct the inquiry at a high cost to the lenders instead of ordering the CFTC, who brought the complaint, to do their own investigation at their cost?
- 2) If the private law firm is permitted to remain on the case, is the court prepared to deny any fees for billable hours unless the law firm is successful at uncovering any wrongdoing by ATC, or its principals in regards to this case?
- 3) Is the court aware a letter of complaint was filed with the Florida Bar by a an Oasis Lender in regards to potential misconduct and unethical behavior between Mr. Wiand, the receiver and James Sallah?
- 4) Why was the motion to retain the Sallah Law firm not granted for three weeks and then suddenly granted?
- 5) Was there any further correspondence between the court and the receiver during those three weeks? If yes, do all parties involved have the right to know what, if anything was submitted to the court to assist in the court finally granting the motion?

Respectfully,

Michael DaCorta

On Monday, April 26, 2021, 10:11:34 AM EDT, Chapin, Jennifer <jchapin@cftc.gov> wrote:

Dear Mr. DaCorta,

Please let me know ASAP your position (“unopposed,” or “opposed”) to the CFTC’s request for relief.

On Friday, Judge Covington issued an order (Doc. #390) granting the Receiver’s motion to retain outside contingency counsel to investigate and pursue potential claims the receivership estate may have against ATC Brokers, the U.K. forex firm to which Oasis sent pool funds, as well as its principal, David Manoukian.

The CFTC is going to seek limited relief from the stay of this litigation such that the CFTC may issue Rule 45 subpoenas to the ATC Entities, as well as to any other non-party entities and individuals the CFTC believes likely to possess relevant information related to claims and possible defenses involving the ATC Entities.

Sincerely,



**Jennifer J. (Jenny) Chapin**

Senior Trial Attorney

Kansas City Regional Office

Division of Enforcement

**Commodity Futures Trading Commission**

816-456-0372

[jchapin@cftc.gov](mailto:jchapin@cftc.gov)





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**From:** Adam Allen <Adam\_Allen@fd.org>  
**Sent:** Monday, April 26, 2021 8:17 AM  
**To:** Chapin, Jennifer <JChapin@CFTC.gov>; Jessica Casciola <Jessica\_Casciola@fd.org>  
**Cc:** Auxter, Alison <JAuxter@CFTC.gov>  
**Subject:** [EXTERNAL] Re: CFTC v. Oasis International Group, Case 8:19-cv-00886-VMC-SPF

**CAUTION:** This email originated from outside of CFTC. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you believe this is SPAM simply block sender and delete the email. If you suspect this to be a phishing attempt, please use the "Report Phishing" button on your Outlook menu bar.

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I do not represent Mr Dacorta on the civil matter and cannot express his position.

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**From:** Chapin, Jennifer <[JChapin@CFTC.gov](mailto:JChapin@CFTC.gov)>  
**Sent:** Monday, April 26, 2021 8:53:03 AM  
**To:** Adam Allen ([Adam\\_Allen@fd.org](mailto:Adam_Allen@fd.org)) <[Adam\\_Allen@fd.org](mailto:Adam_Allen@fd.org)>; [Jessica\\_Casciola@fd.org](mailto:Jessica_Casciola@fd.org) <[Jessica\\_Casciola@fd.org](mailto:Jessica_Casciola@fd.org)>  
**Cc:** Auxter, Alison <[JAuxter@CFTC.gov](mailto:JAuxter@CFTC.gov)>  
**Subject:** FW: CFTC v. Oasis International Group, Case 8:19-cv-00886-VMC-SPF

Good morning,

Does Mr. DaCorta oppose?

Thanks,

Jenny

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**From:** Chapin, Jennifer  
**Sent:** Friday, April 23, 2021 11:40 AM  
**To:** Gerard Marrone ([gmarronelaw@gmail.com](mailto:gmarronelaw@gmail.com)) <[gmarronelaw@gmail.com](mailto:gmarronelaw@gmail.com)>; Adam Allen ([Adam\\_Allen@fd.org](mailto:Adam_Allen@fd.org)) <[Adam\\_Allen@fd.org](mailto:Adam_Allen@fd.org)>; 'Jessica\_Casciola@fd.org' <[Jessica\\_Casciola@fd.org](mailto:Jessica_Casciola@fd.org)>; 'flduran7@gmail.com' <[flduran7@gmail.com](mailto:flduran7@gmail.com)>; 'brian.phillips@phillips-law-firm.com' <[brian.phillips@phillips-law-firm.com](mailto:brian.phillips@phillips-law-firm.com)>; 'jperez@guerraking.com' <[jperez@guerraking.com](mailto:jperez@guerraking.com)>; 'mark@horwitzcitrolaw.com' <[mark@horwitzcitrolaw.com](mailto:mark@horwitzcitrolaw.com)>; 'vince@horwitzcitrolaw.com' <[vince@horwitzcitrolaw.com](mailto:vince@horwitzcitrolaw.com)>; Bedke, Rachele (USAFLM) <[Rachele.Bedke@usdoj.gov](mailto:Rachele.Bedke@usdoj.gov)>; 'Burton Wiand' <[burt@burtonwiandpa.com](mailto:burt@burtonwiandpa.com)>; Chee, David (USAFLM) <[David.Chee@usdoj.gov](mailto:David.Chee@usdoj.gov)>  
**Cc:** Auxter, Alison <[JAuxter@CFTC.gov](mailto:JAuxter@CFTC.gov)>; Le Riche, Jeff <[jleriche@CFTC.gov](mailto:jleriche@CFTC.gov)>  
**Subject:** CFTC v. Oasis International Group, Case 8:19-cv-00886-VMC-SPF

Dear Counsel and Mr. Duran,

The purpose of this email is to inquire with you pursuant to Local Rule 3.01(g) regarding your respective positions concerning a motion the CFTC intends to file.

Judge Covington issued an order this morning (Doc. #390) granting the Receiver's motion to retain outside contingency counsel to investigate and pursue potential claims the receivership estate may have against ATC Brokers, the U.K. forex firm to which Oasis sent pool funds, as well as its principal, David Manoukian.

The CFTC is going to seek limited relief from the stay of this litigation such that the CFTC may issue Rule 45 subpoenas to the ATC Entities, as well as to any other non-party entities and individuals the CFTC believes likely to possess relevant information related to claims and possible defenses involving the ATC Entities.

Please let me know your position ("unopposed," or "opposed") to the CFTC's request for relief **by noon Eastern time on Monday, April 26.**

Thank you.

Jenny



**Jennifer J. (Jenny) Chapin**

Senior Trial Attorney

Kansas City Regional Office

Division of Enforcement

**Commodity Futures Trading Commission**

816-456-0372

[jchapin@cftc.gov](mailto:jchapin@cftc.gov)

