

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

Case No. 8:19-CV-886-T-33SPF

v.

OASIS INTERNATIONAL GROUP,  
LIMITED; et al.,

Defendants.

\_\_\_\_\_ /

**RECEIVER’S OMNIBUS<sup>1</sup> RESPONSE TO OBJECTIONS  
TO REPORT BY MAGISTRATE JUDGE RECOMMENDING  
APPROVAL OF FIRST INTERIM DISTRIBUTION**

Burton W. Wiand, the Court-appointed receiver over the assets of the defendants and relief defendants (the “**Receiver**” and the “**Receivership**” or “**Receivership Estate**”), respectfully urges the Court to overrule the objections filed by Michelle Utter, Casey Utter, Robert Parker Utter, Henry Fuksman, Lance Wren, and John Paniagua (Docs 715-723) (the “**Objections**” and the “**Objectors**”) to a report from the presiding Magistrate Judge, which recommends that the Court grant the Receiver’s motion to approve a first

---

<sup>1</sup> To the extent Local Rules governing page limitations apply to responses to objections to a report and recommendation, the Receiver submits this omnibus response in lieu of multiple responses to the six individual Objections.

interim distribution of \$10 million (Doc. 705) (the “**R&R**”). The Objections are frivolous, untenable, and without evidentiary support. They are also improper because they cause unnecessary delay and needlessly increase litigation costs.

### **BACKGROUND**

On April 15, 2019, the Commodity Futures Trading Commission (“**CFTC**”) filed a complaint (Doc. 1) against (1) defendants Oasis International Group, Limited (“**OIG**”); Oasis Management, LLC (“**Oasis Management**”); Michael J. DaCorta (“**DaCorta**”); Joseph S. Anile, II (“**Anile**”); Francisco “Frank” L. Duran (“**Duran**”); Satellite Holdings Company (“**Satellite Holdings**”); John J. Haas (“**Haas**”); and Raymond P. Montie, III (“**Montie**”) (collectively, the “**defendants**”) and (2) relief defendants Fundadministration, Inc.; Bowling Green Capital Management, LLC; Lagoon Investments, Inc.; Roar of the Lion Fitness, LLC; 444 Gulf of Mexico Drive, LLC; 4064 Founders Club Drive, LLC; 6922 Lacantera Circle, LLC; 13318 Lost Key Place, LLC; and 4Oaks, LLC (collectively, the “**relief defendants**”). These defendants and relief defendants are referred to as the “**Receivership Entities.**”

On the same day the CFTC filed its complaint, April 15, 2019, the Court entered an order appointing Burton W. Wiand as temporary Receiver for the Receivership Entities. *See* Doc. 7. The Court directed him, in relevant part, to “[t]ake exclusive custody, control, and possession of the Receivership Estate,” which includes “all the funds, properties, premises, accounts, income, now or

hereafter due or owing to the Receivership Defendants, and other assets directly or indirectly owned, beneficially or otherwise, by the Receivership Defendants.” *See id.* at p. 14, ¶ 32 & p. 15, ¶ 30.b.

Subsequently, all defendants and relief defendants either defaulted or consented to the entry of a preliminary injunction against them (with some differences unique to the circumstances of each party). *See* Docs. 35, 43, 44, 82, 85, 172, 174-77. On July 11, 2019, the Court entered a Consolidated Receivership Order, which (along with a subsequent order of reappointment) is the operative document governing the Receiver’s activities. *See* Docs. 177 & 390 (collectively, the “**Consolidated Order**”).

On November 9, 2021, the Receiver filed a Motion to (1) Approve Determination and Priority of Claims, (2) Pool Receivership Assets and Liabilities, (3) Approve Plan of Distribution, and (4) Establish Objection Procedure (the “**Claims Determination Motion**”). Doc. 439. The Court granted the Claims Determination Motion on March 7, 2022. Doc. 482. The Court expressly approved and implemented the Receiver’s proposed “**Objection Procedure**” (*see* Doc. 439 at pp. 44-45):

The Objection Procedure as set forth in the Motion for objections to the plan of distribution and the Receiver’s claim determinations and claim priorities is logical, fair, and reasonable and is approved, and any and **all objections to claim determinations and claim priorities as set forth in the Motion or Exhibits 1 through 5, or to the plan of distribution shall be presented to the**

**Receiver in accordance with the Objection Procedure as set forth in the Motion.**

Doc. 482 ¶ 5 (emphasis added). The Receiver then posted [instructions](#) and a copy of the [Court's order](#) on the [Receivership website](#).<sup>2</sup> The Receiver also sent substantively identical information to certain claimants and other interested parties via email. On March 25, 2022, the Receiver mailed more than 1,000 customized letters to claimants, and if applicable, their attorneys. As such, the Court-ordered deadline for submitting objections to the Receiver's claim determinations was **April 14, 2022**. See Doc. 439 § VIII.A.(c) at p. 45. Many claim determinations also required the associated claimant(s) to submit additional information to the Receiver – most commonly, a [Personal Verification Form](#) but, in some instances, supplemental documents like bank statements or affidavits.

On December 9, 2022, the Receiver moved the Court for an order (1) approving a first interim distribution of \$10 million; (2) approving the Receiver's final determinations regarding unperfected or incomplete claims;

---

<sup>2</sup> “The Receiver will mail each claimant (and counsel, if applicable) a letter with detailed instructions....”

**Please review the information in the letter carefully.** The letter will contain the claim number for the referenced claimant. You should receive a letter for each claim you submitted. Take note of the claimant name(s) and your claim number(s) and review the Receiver's Court-approved determination of your claim(s), as set forth in the exhibits to the Motion. Claims have been approved in full, approved in part, and denied. **Many claims have been approved but require additional information or documents before the claimants can participate in any distributions.**” (Original emphasis).

and (3) overruling limited objections to certain claim determinations. Doc. 695 (the “**Distribution Motion**”). The first interim distribution of \$10 million will satisfy approximately 17.51% of the “Allowed Amounts” (see Doc. 439 at 10) of claims receiving a distribution at this time (as set forth in Exhibits 1 and 2 of the motion). No party or nonparty, including the Objectors, timely opposed the motion or any of the matters discussed therein.

On January 27, 2023, the presiding Magistrate Judge issued the R&R, which recommended that the Court grant the Distribution Motion. Doc. 705. On February 10, 2023, Ronald J. Kurpiers, II, Esq. filed notices of appearance and substantively identical Objections to the R&R on behalf of six claimants: Casey Utter (Docs. 709, 723); Michelle Utter (Docs. 710, 718); Robert Parker Utter (Docs. 711, 722); Henry Fuksman (Docs. 712, 717, 721); John Paniagua (Docs. 713, 716, 720); and Lance Wren (Docs. 714, 715, 719). Each of these individuals received appropriate, Court-approved notice of the claims process, their respective claim numbers, their recommended claim determinations, and all pertinent deadlines.

**Claim No. 762 – Casey Utter**

Casey Utter listed her mailing address as 172 Eastgate Drive Rochester, NY 14617 on her Proof of Claim Form, a copy of which is attached to the declaration of Burton W. Wiand, as Receiver (the “**Receiver’s Declaration**”

or “**R. Decl.**”) as Exhibit A.1.<sup>3</sup> She also listed an office associated with Brent Allan Winters as her designated mailing address with respect to the claims process – specifically, 5105 S. US Hwy 41, Terre Haute, Indiana 47802 (the “**Indiana Office**”).<sup>4</sup>

On March 25, 2022, the Receiver mailed a letter to Ms. Utter and Mr. Winters at both addresses listed above, which contained her assigned claim number – 762. *See* R. Decl. Ex. A.2 (a “**Determination Letter**”). The letter also contained important instructions and warnings:

The Court has approved my recommended determination of the above claim. This determination is set forth in the Exhibits attached to the Motion and is addressed in the body of the Motion. You are strongly urged to review my Court-approved determination of your claim as stated in the Motion and its Exhibits. There are instances where the Court approved my recommendation to either deny a claim or allow a portion of the amount claimed. There are also instances where the claimant is required to take additional action to maintain the claim....

If you are required to submit any such form, documentation, or additional information, you must do so **no later than April 14, 2022** or your claim may be deemed denied....

If you wish to dispute my determination of the above claim, its priority, or the plan of distribution, you **MUST** serve me with a written objection **no later than April 14, 2022....**

---

<sup>3</sup> Ms. Utter used the same address to register with the Receivership website on April 30, 2019. *See* R. Decl. Ex. A.3. This demonstrates an awareness of the website, which has a prominent section devoted to the [claims process](#).

<sup>4</sup> *See* Proof of Claim Form ¶ 4 (“Provide **one** mailing address where the Claimant authorizes the receipt of all future communications relating to this claim, including any possible distribution payment the Claimant may receive (this does not authorize payment to be made out to anyone other than Claimant). It is the Claimant’s sole responsibility to advise the Receiver of any change to this address after the submission of this form.”).

**Failure to properly and timely serve an objection to the determination of your claim, its priority, or plan of distribution shall permanently waive your right to object to or contest the determination of your claim, its priority, and plan of distribution and your final claim amount shall be set as the Allowed Amount determined by me and approved by the Court as set forth in the Exhibits attached to the Motion.**

*Id.* (original emphasis). Casey Utter’s claim is discussed (using her assigned claim number) on pages 22 and 23 of the Claims Determination Motion, and the “Receiver’s Recommended Claim Determination” is listed in Exhibit 3:

The claimant asserted a claim in excess of the Net Investment Amount. That amount is likely attributable to False Profits, which are not recoverable. The claimant also did not provide sufficient documentation to support her claim. Accordingly, the Receiver recommends that this claim be denied. If the claimant chooses to object, the claimant must also provide an affidavit attesting that the investment was in no way funded by Raymond Montie or any Receivership funds.

Doc. 439-3 at p. 9. As discussed in more detail below, the association with defendant Montie is relevant because Casey Utter is related to Michelle Utter, who was Montie’s employee and assistant in connection with his efforts to solicit and recruit investors to the scheme underlying this Receivership.

Instead of simply providing the required affidavit, on April 13, 2022, Casey Utter (along with the numerous other claimants, including all the Objectors) filed a document entitled “Beneficiary’s Notice And Objection To Receiver’s Continued Operations In The Absence Of Discovery, Hearing, And Final Judgment” (Doc. 611) (collectively, the “**Notices**”). The Notices asked the Court to prohibit the Receiver from making any distributions to any claimants until a final judgment has been entered in this action. On April 18, 2022, the

Court, *sua sponte*, struck the Notices and certain related “declarations” from the docket as a “scheme” to undermine the Receivership. *See* Doc. 638 at 7 (“[T]he deluge of identical filings seems to the Court merely to be a scheme — clearly led and directed by one person or a group of people — to disrupt the orderly administration of this Receivership case.”). After striking the Notices, the Court expressly directed all claimants to timely follow the Objection Procedure. *Id.* at 9. Casey Utter, however, did not submit an objection to her claim determination or the required affidavit within the time prescribed by the Objection Procedure. As such, her claim was denied as of April 14, 2022.<sup>5</sup> Nothing in the Distribution Motion affects her claim determination or excuses her failure to comply with the Objection Procedure.

**Claim No. 763 – Michelle Utter**

Michele Utter listed her mailing address as 143 Amerige Park Rochester, NY 14617 on her Proof of Claim Form. *See* R. Decl. Ex. B.1.<sup>6</sup> She also listed Mr. Winters’ Indiana Office as her designated mailing address with respect to

---

<sup>5</sup> On April 18, 2022, Casey Utter submitted a purported declaration and altered Personal Verification Form. R. Decl. Ex. A.4. She marked “No” to the prompt: “Brent Winters is representing me in this Receivership, including my claim to any Receivership assets.” The document was mailed from the address associated with Michelle Utter, as discussed below. On January 23, 2023, despite the representation in the Personal Verification Form, Mr. Winters emailed the undersigned a declaration from Casey Utter, falsely stating that she did not receive notice that her claim was denied. By that time, the Distribution Motion had been pending for more than six weeks.

<sup>6</sup> Michelle Utter used the same address to register with the Receivership website on May 1, 2019. *See* R. Decl. Ex. B.3. This demonstrates an awareness of the website, which has a prominent section devoted to the [claims process](#).



the claims process. On March 25, 2022, the Receiver mailed a Determination Letter to Ms. Utter and Mr. Winters at both addresses listed above, which contained instructions and warnings as well as her assigned claim number – 763. *See* R. Decl. Ex. B.2.

Ms. Utter’s claim is discussed (using her assigned claim number) on pages 20 through 22 of the Claims Determination Motion, and the “Receiver’s Recommended Claim Determination” is listed in Exhibit 3:

This claim was submitted by an individual who worked as a secretary for one of the named Defendants. Given the claimant’s involvement with Receivership Entities, she should have recognized at least some of the numerous and easily discernible red flags surrounding them and the individual defendants. In turn, she should have conducted a diligent and reasonable investigation, which would have uncovered fraud, or at a minimum, failed to ameliorate suspicions. For the foregoing reasons and under principles of equity, the claimant should not be allowed to recover any losses.

Doc. 439-3 at p. 10. As mentioned above, Michelle Utter was defendant Montie’s employee and assistant in connection with his efforts to solicit investors to the scheme underlying this Receivership. She was responsible for organizing numerous conference calls with victims of the scheme. During those calls, Montie, DaCorta, and others provided false information to recruit investors. Those efforts raised millions of dollars to perpetrate and perpetuate the scheme.

Michelle Utter filed a Notice (Doc. 615) but did not submit an objection to her claim determination within the time prescribed by the Objection

Procedure. The Notice did not address any of the legal or factual issues raised in her claim determination. As such, her claim was denied as of April 14, 2022.<sup>7</sup> Nothing in the Distribution Motion affects her claim determination or excuses her failure to comply with the Objection Procedure.

**Claim No. 764 – Robert Parker Utter**

Robert Parker Utter listed his mailing address as 143 Amerige Park Rochester, NY 14617 on his Proof of Claim Form. *See* R. Decl. Ex. C.1.<sup>8</sup> He also listed Mr. Winters’ Indiana Office as his designated mailing address with respect to the claims process. On March 25, 2022, the Receiver mailed a Determination Letter to Mr. Utter and Mr. Winters at both addresses listed above, which contained instructions and warnings as well as his assigned claim number – 764. *See* R. Decl. Ex. C.2.

Mr. Utter’s claim is discussed (using his assigned claim number) on pages 20 through 22 of the Claims Determination Motion, and the “Receiver’s Recommended Claim Determination” is listed in Exhibit 3:

---

<sup>7</sup> On April 18, 2022, Michelle Utter submitted a purported declaration and altered Personal Verification Form. R. Decl. Ex. B.4. She marked “No” to the prompt: “Brent Winters is representing me in this Receivership, including my claim to any Receivership assets.” On January 23, 2023, despite the representation in the Personal Verification Form, Mr. Winters emailed the undersigned a declaration from Michelle Utter, falsely stating that she did not receive notice that her claim was denied. By that time, the Distribution Motion had been pending for more than six weeks.

<sup>8</sup> Mr. Utter used this same address to register with a Receivership website on April 30, 2019. *See* R. Decl. Ex. C.3. This also demonstrates an awareness of the website, which has a prominent section devoted to the [claims process](#).

This claim was submitted by an individual who worked for Receivership Entities by providing information technology services for Receivership Entities and named Defendants. The claimant's wife also was the secretary for one of the named Defendants. Given the claimant's involvement with Receivership Entities, he should have recognized at least some of the numerous and easily discernible red flags surrounding them and the individual defendants. In turn, he should have conducted a diligent and reasonable investigation, which would have uncovered fraud, or at a minimum, failed to ameliorate suspicions. For the foregoing reasons and under principles of equity, the claimant should not be allowed to recover any losses.

Doc. 439-3 at p. 10. Mr. Utter filed a Notice (Doc. 614) but did not submit an objection to this claim determination within the time prescribed by the Objection Procedure. As such, his claim was denied as of April 14, 2022.<sup>9</sup> Nothing in the Distribution Motion affects his claim determination or excuses his failure to comply with the Objection Procedure.

**Claim No. 722 – Henry Fuksman**

Henry Fuksman listed his mailing address as 862 Fassett Rd Elmira, NY 14905 on his Proof of Claim Form. *See* R. Decl. Ex. D.1. He also listed Mr. Winters' Indiana Office as his designated mailing address with respect to the claims process. On March 25, 2022, the Receiver mailed a Determination

---

<sup>9</sup> On April 18, 2022, Robert Parker Utter submitted a purported declaration and altered Personal Verification Form. R. Decl. Ex. C.4. He marked "No" to the prompt: "Brent Winters is representing me in this Receivership, including my claim to any Receivership assets." On January 23, 2023, despite the representation in the Personal Verification Form, Mr. Winters emailed the undersigned a declaration from Robert Parker Utter, falsely stating that he did not receive notice that his claim was denied. By that time, the Distribution Motion had been pending for more than six weeks. Mr. Utter also stated that he is the son – not the husband – of Michelle Utter. Any confusion about the Utters' familial relationships, however, should have been resolved when they received their claim determinations in March 2022 – not 10 months later in January 2023 after the claims process is essentially complete.

Letter to Mr. Fuksman and Mr. Winters at both addresses listed above, which contained instructions and warnings as well as his assigned claim number – 722. *See* R. Decl. Ex. D.2.

The “Receiver’s Recommended Claim Determination” for Mr. Fuksman is listed in Exhibit 3 to the Claims Determination Motion:

The claimants asserted a claim in excess of the Net Investment Amount. This amount includes a payment the claimants do not claim they received which is supported by the Receivership Records and also likely includes False Profits, which are not recoverable. The claimants also had False Profits in connection with their investment. Accordingly, this claim should be denied because there are no losses.

Doc. 439-3 at p. 4. Mr. Fuksman filed a Notice (Doc. 526) but did not submit an objection to this claim determination within the time prescribed by the Objection Procedure. As such, his claim was denied as of April 14, 2022.<sup>10</sup> Nothing in the Distribution Motion affects his claim determination or excuses his failure to comply with the Objection Procedure.

In addition, Henry and Anna Fuksman were defendants in the Receiver’s clawback lawsuit. *See Wiand, as Receiver v. Arduini et al.*, Case No. 8:20-cv-862-T-33TGW. On April 19, 2021, the Receiver obtained an amended default

---

<sup>10</sup> On April 15, 2022, Henry and Anna Fuksman submitted a purported declaration and altered Personal Verification Form. R. Dec. Ex. D.3. The document was mailed from the address listed above. They marked “No” to the prompt: “Brent Winters is representing me in this Receivership, including my claim to any Receivership assets.” On January 23, 2023, despite the representation in the Personal Verification Form, Mr. Winters emailed the undersigned a declaration from Henry Fuksman, falsely stating that he did not receive notice that his claim was denied and was also unaware of the judgment against him (*see infra*). By that time, the Distribution Motion had been pending for more than six weeks.

judgment against them, jointly and severally, for “\$23,938.69 in damages plus \$2,846.11 in prejudgment interest through 11/04/2020” and taxation of costs in the amount of \$337.68. *See id.* Doc. 751.<sup>11</sup> On April 12, 2022, Henry Fuksman filed a Form 1.977 Fact Information Sheet, as ordered by the presiding Magistrate Judge, but Mr. Fuksman asserted his “Fifth Amendment right”

---

<sup>11</sup> The Receiver’s professionals served Henry and Anna Fuksman with process on June 25 and July 2, 2020, respectively, at 862 Fassett Rd Elmira, NY 14905. *Id.* Docs. 208, 209. On July 22, 2020, they joined a “Motion to Quash Summons and Object to Jurisdiction” (*id.* Doc. 260, entered July 23, 2020), which the Court denied by oral order on August 17, 2020 (*id.* Doc. 344). The Court directed them to file an answer to the Receiver’s clawback complaint by September 16, 2020, or be subject to entry of default. *Id.* They failed to answer the complaint as directed; therefore, on September 21, 2020, the Receiver moved for entry of Clerk’s defaults (Doc. 441), and the Clerk entered the defaults on September 22, 2020 (Docs. 445, 446).

On September 23, 2020, Henry and Anna Fuksman filed a “Special Appearance” and attempted to join a motion to dismiss the Receiver’s clawback complaint for, in relevant part, “insufficient process.” *See id.* Doc. 460. The document was mailed to the Clerk of the Court from 862 Fassett Rd Elmira, NY 14905. *Id.* at 4-5. On October 2, 2020, the Court struck the filing. Doc. 499 (“The defendants have neither moved to set aside the Clerk’s entries of default nor shown good cause why the entries of default should be set aside. Absent a motion to set aside the Clerk’s entry of default, a defendant may not join a motion to dismiss. Fed. R. Civ. P. 55. Accordingly, the joinders in motion are due to be stricken.”). On October 3, 2020, the Court denied the motion to dismiss that Henry and Anna Fuksman attempted to join. *Id.* Doc. 502. After a hearing and additional briefing, the Clerk of the Court entered the first default judgment against Henry and Anna Fuksman on November 4, 2020. *Id.* Doc. 612; *see also* Docs. 523 (motion); 592 (order granting omnibus motion for default judgments and reviewing relevant procedural history). The Receiver then began post-judgment discovery and collection efforts. *See, e.g.*, Doc. 1176 (order directing completion of Fact Information Sheet). On March 21, 2022, Henry and Anna Fuksman filed a “Notice and Objection by Special Appearance” to an order from the presiding Magistrate Judge, which required them to attend a hearing. *Id.* Doc. 1133. The 94-page filing (with exhibits) raised frivolous legal arguments and again listed the defendants’ Elmira, NY mailing address. *Id.* at 16.

In addition, on November 2, 2020, Henry and Anna Fuksman filed a notice of joinder to a purported appeal of the Court’s order denying their motion to dismiss. *Id.* Doc. 575. They listed their Elmira, NY address on that document and on the mailing envelope. *Id.* On December 10, 2020, the appeal was dismissed for want of prosecution because the defendants failed to pay their filing fees. *Id.* Docs. 676, 714. The matter was eventually reinstated, but on April 8, 2021, the Eleventh Circuit dismissed the appeal, *sua sponte*, for lack of jurisdiction. *See id.* Doc. 737; *Wiand v. Luda et al.*, Case No. 20-14123-GG (11th Cir. 2021).

against self-incrimination in response to almost every single question. *See* R. Decl. Ex. D.4. The return address on the USPS envelope containing the Fact Information Sheet is 862 Fassett Rd Elmira, NY 14905.<sup>12</sup>

**Claim Nos. 752, 753 – John Paniagua**

John Paniagua listed his mailing address as 98-05 63rd Rd. Apt 14E Rego Park, NY 11374 on two Proof of Claim Forms. *See* R. Decl. Ex. E.1. He also listed Mr. Winters’ Indiana Office as his designated mailing address with respect to the claims process. On March 25, 2022, the Receiver mailed two Determination Letters to Mr. Utter and Mr. Winters at the addresses listed above, which contained instructions and warnings as well as his assigned claim numbers – 752 and 753. *See* R. Decl. Ex. E.2.

Mr. Paniagua’s claims are discussed (using his assigned claim numbers) on pages 20 through 22 of the Claims Determination Motion, and the “Receiver’s Recommended Claim Determination[s]” are listed in Exhibit 3:

The claimant failed to provide sufficient documents to support the amounts claimed and the amounts claimed are inconsistent with Receivership Records. Moreover, this claim was submitted by an individual who assisted with back office activities for Receivership

---

<sup>12</sup> Even mundane filings reveal an obstructive disregard for governing rules and the Court’s orders. *See, e.g.*, Docs. 356 (opposing Receiver’s motion for extension of time); 563 (motion for electronic filing; denied per Doc. 639 due to uncured default); 585 (motion for Brent Allan Winters to appear *pro hac vice*; denied per Doc. 648 for failure to submit required information); 652 (second motion for Brent Allan Winters to appear *pro hac vice*; denied per Doc. 659 because of “identical” insufficiencies as first motion); 1094 (second motion for electronic filing; denied per Doc. 1104 due again to uncured default); *see also* Docs. 1108 (response/objection to order on motion to compel production of documents in aid of execution); 1165 (objection to proposed order).

Entities and participated in the creation of a website that was a significant piece in the deception of investors in this scheme. The Receiver reached out to the claimant regarding the services he provided and his investment. The claimant refused to provide any information to clarify his role and services in connection with the Receivership Entities. For the foregoing reasons and under principles of equity, this claim should be denied.

Doc. 439-3 at p. 8 (determination for each claim is identical). Mr. Paniagua filed a Notice and other frivolous documents (Docs. 495, 623, 624) but did not submit an objection to these claim determinations within the time prescribed by the Objection Procedure. As such, his claims were denied as of April 14, 2022. Nothing in the Distribution Motion affects his claim determination or excuses his failure to comply with the Objection Procedure.

**Claim Nos. 773, 774 – Lance Wren**

Lance Wren listed his mailing address as 44 Maple Street Dallas, PA 18612 on two Proof of Claim Forms. *See* R. Decl. Ex. F.1. He also listed Mr. Winters’ Indiana Office as his designated mailing address with respect to the claims process. On March 25, 2022, the Receiver mailed two Determination Letters to Mr. Wren and Mr. Winters at both addresses listed above, which contained instructions and warnings as well as his assigned claim numbers – 773 and 774. *See* R. Decl. Ex. F.2.

Mr. Wren’s claims are discussed (using his assigned claim numbers) on page 25 of the Claims Determination Motion, and the “Receiver’s Recommended Claim Determination[s]” are listed in Exhibit 3:

773: The claimant asserted a claim in excess of the Net Investment Amount. This amount includes an investment not supported by Receivership Records and likely includes False Profits, which are not recoverable. Further, the claimant also indicated on a Proof of Claim Form for another investment that he received commissions, referral fees, or other compensation, but failed to provide information regarding how much he received. The Receiver contacted the claimant and attempted to resolve this deficiency. The claimant did not respond. Accordingly, the Receiver recommends that this claim be denied.

774: The claimant asserted a claim in excess of the Net Investment Amount. That amount is likely attributable to False Profits, which are not recoverable. The claimant also indicated on the Proof of Claim Form that he received commissions, referral fees, or other compensation, but failed to provide information regarding how much he received. The Receiver contacted the claimant and attempted to resolve this deficiency. The claimant did not respond. Accordingly, the Receiver recommends that this claim be denied.

Doc. 439-3 at pp. 11-12; *see also* R. Decl. Ex. F.7. (email requesting additional information regarding commissions). Mr. Wren filed a Notice (Doc. 562) but did not submit an objection to these claim determinations within the time prescribed by the Objection Procedure. As such, his claims were denied as of April 14, 2022.<sup>13</sup> Nothing in the Distribution Motion affects his claim determination or excuses his failure to comply with the Objection Procedure.

---

<sup>13</sup> On April 18, 2022, Lance Wren submitted two purported declarations and altered Personal Verification Forms. R. Decl. Exs. F.5. and F.6. He marked “No” to the prompt: “Brent Winters is representing me in this Receivership, including my claim to any Receivership assets.” On January 23, 2023, despite the representation in the Personal Verification Form, Mr. Winters emailed the undersigned a declaration from Lance Wren, falsely stating that he did not receive notice that his claim was denied. The declaration did not directly address his receipt of commissions. By that time, the Distribution Motion had been pending for more than six weeks.



### Other Forms of Notice Regarding Claim Determinations

On March 25, 2022, the Receiver sent an email notifying recipients that the Court granted the Claims Determination Motion and informing them of “[t]he next steps in this claims process.” R. Decl. Ex. G.<sup>14</sup> Robert Parker Utter opened the email at 5:28 PM (Ex. H); Lance Wren opened the email at 6:26 PM (*id.*); and Casey Utter opened the email at 7:41 PM and 8:20 PM (*id.*). Finally, Michelle Utter opened or otherwise interacted with the email by clicking an embedded link approximately 25 times between March 25, 2022, and April 14, 2022. *Id.*<sup>15</sup>

Similarly, on April 13, 2022, the Receiver sent a “Reminder” email, which again cautioned claimants to review their Court-approved determinations. R.

---

<sup>14</sup> “On or about March 25, 2022, the Receiver will mail each claimant (and counsel, if applicable) a letter with detailed instructions .... If you do not receive a letter within a few days of the mailing date, you may contact the Receiver’s professionals for assistance (astephens@guerraking.com) .... **Please review the information in the letter carefully.** The letter will contain the claim number for the referenced claimant. You should receive a letter for each claim you submitted. Take note of the claimant name(s) and your claim number(s) and review the Receiver’s Court-approved determination of your claim(s), as set forth in the exhibits to the Motion. Claims have been approved in full, approved in part, and denied. **Many claims have been approved but require additional information or documents before the claimants can participate in any distributions.** Please visit the Receivership website for links to the exhibits with the claim determinations.” (Original emphasis).

<sup>15</sup> On April 30, 2019, the Receiver sent an email to hundreds of known, identifiable investors using the Receivership Entities’ “CRM” software, which informed the investors of the Receivership, the Receiver’s website, and the opportunity for investors to register through the website.

Decl. Ex. I.<sup>16</sup> Lance Wren received the email but never opened it. Ex. H. Casey Utter also received the email but did not open it until December 12, 2022 – eight months later. *Id.* Robert Parker Utter opened the email on April 13 and 20, 2022 (*id.*), and Michelle Utter opened the email on April 14, 2022 (*id.*).

In addition, the Receiver explained the claims process in his first interim report and has included a section about the process in all subsequent reports. *See, e.g.*, Doc. 113 at 7 (explaining general process); Doc. 706 § VI (explaining current status). These reports have been available on the [Receivership website](#) since the inception of this case. A prominent section of the Receivership website is also devoted to [the claims process](#).

### **ARGUMENT**

“[A] district court has discretion to decline to consider a party’s argument when that argument was not first presented to the magistrate judge.” *Williams v. McNeil*, 557 F.3d 1287, 1292 (11th Cir. 2009) (affirming refusal to consider timeliness argument not raised before magistrate judge). Because none of the arguments in the Objections were presented to the Magistrate Judge, the Court should adopt the R&R and authorize the first interim distribution. Even

---

<sup>16</sup>. “Investors are cautioned to review their claim determinations carefully.... Again, if you choose to ignore your obligations in this claims process, you risk recovering nothing. Instead, money that would have been paid in satisfaction of your claim(s) could be paid to other investors....”

if the Court exercises its discretion to review the Objections, they should nevertheless be overruled as false, frivolous, and obstructive.

**I. THE OBJECTIONS ARE FRIVOLOUS, UNTENABLE, AND WITHOUT EVIDENTIARY SUPPORT**

The Objections are frivolous, untenable, and without evidentiary support for three independent reasons. First, the Objections are not relevant to the Distribution Motion or the R&R. Specifically, the Receiver filed the Claims Determination Motion on November 9, 2021, and as explained above, he recommended that the Court deny the Objectors' claims. *See* Doc. 439. The Court granted the Claims Determination Motion on March 7, 2022. *See* Doc. 482. The Court found that “[t]he Receiver’s treatment and determination of claims and claim priorities as set forth in the Motion and in Exhibits 1 through 5 attached to the Motion are fair and equitable and are approved,” but the Court also allowed claimants to challenge those determinations through the Objection Procedure. *See id.* ¶¶ 1, 5. None of the claimants at issue here submitted an objection through the Objection Procedure, and as a result, their instant filings are untimely by approximately 10 months. Their attempt to shoehorn their untimely filings into the Court’s consideration of the Distribution Motion is frivolous and untenable.<sup>17</sup>

---

<sup>17</sup> *See* Doc. 694 at fn. 6 (“If a claim was listed as denied in Exhibit 3 to the Claims Determination Motion, and the claimant did not submit an objection through the Objection Procedure, that claim remains denied and does not appear on Exhibits 1 through 3 to this motion.”).

Second, all of the Objections state that the Receiver denied the Objectors' claims due to "their mere association with one or more of the Defendant's [*sic*] in the instant case" (*see, e.g.*, Doc. 718 ¶ 3), but that statement is largely false. As explained and excerpted above, the Receiver recommended Mr. Fuksman's claim be denied because he suffered no losses. Indeed, the Receiver has an unsatisfied judgment against him exceeding \$25,000, and he invoked his Fifth Amendment right against self-incrimination in response to a standard, Court-ordered Form 1.977 Fact Information Sheet.

The Receiver recommended Mr. Wren's claim be denied because he stated on his Proof of Claim Form that he received commissions (or similar compensation) for promoting the scheme but then refused to explain the nature or amount of the commissions.<sup>18</sup> Similarly, John Paniagua and Michelle Utter

---

<sup>18</sup> *See* Claims Determination Motion at 15-17 (explaining that the payment of commissions for selling unregistered securities is illegal under state and federal law, contrary to forfeiture and remission regulations, and inconsistent with the equitable principles governing receiverships); *see also* 28 C.F.R. § 9.8(b)(3) (requiring that "[t]he victim did not knowingly contribute to, participate in, benefit from, or act in a willfully blind manner towards the commission of the offense, or related offense, that was the underlying basis of the forfeiture..."); 28 C.F.R. § 9.1(a) ("The purpose of this part is to provide a basis for the partial or total remission of forfeiture for individuals who have an interest in the forfeited property but who did not participate in, or have knowledge of, the conduct that resulted in the property being subject to forfeiture and, where required, took all reasonable steps under the circumstances to ensure that such property would not be used, acquired, or disposed of contrary to law."); *S.E.C. v. Pension Fund of America L.C.*, 377 Fed. Appx. 957, 963 (11th Cir. 2010) (denying claim for "commissions" because "commissions were derived from the funds of investors who were victimized by the fraudulent scheme"); *Warfield v. Byron*, 436 F.3d 551, 559-560 (5th Cir. 2006) (requiring return of "commissions" received for recruiting investors to Ponzi scheme); *Miller v. Taber*, 2014 WL 317938, at \*2 (D. Utah 2014) (requiring return of all "commissions and salaries for referring investors").

were not merely associated with defendants to this action; rather, they provided material services to defendants and Receivership Entities that facilitated and prolonged the scheme.<sup>19</sup> John Paniagua even testified on behalf of defendant DaCorta during his criminal trial. In any event, any objections concerning the scope of these claimants' participation in the scheme or the legal principles discussed in the Claims Determination Motion should have been submitted through the Objection Procedure ten months ago in April 2022.

Casey Utter's involvement with the scheme (if any) is less clear, but for that exact reason, the Receiver allowed her the opportunity to submit an affidavit stating that her principal investment amount was not derived from defendant Montie or otherwise directly or indirectly from the scheme. Her first investment was made when she was 20 and lived with her parents, both of whom provided services to Receivership Entities. She failed to submit any such affidavit until January 2023 (through Winters). Claimants are entitled to due

---

<sup>19</sup> See Claims Determination Motion at 20-23; see also *S.E.C. v. Basic Energy & Affiliated Res.*, 273 F.3d 657, 660 (6th Cir. 2001) (affirming distribution plan that prohibited defendants from recovering at all and reduced recovery of employees based on level of involvement in fraudulent scheme); *S.E.C. v. Bivona*, 2017 WL 4022485, at \*13 (N.D. Cal. 2017) (“[C]ourts have approved the exclusion of individuals ... even when the claimant did not knowingly engage in unlawful, wrongful, or criminal conduct.”); *S.E.C. v. Byers*, 637 F. Supp. 2d 166, 184 (S.D.N.Y. 2009) (“The Receiver’s proposal to treat differently those involved in the fraudulent scheme when distributions are being made is eminently reasonable and is supported by caselaw.”); *S.E.C. v. Enterprise Trust Co.*, 2008 WL 4534154, at \*3 (N.D. Ill. 2008) (“Disqualifying those who took the business over the edge is the most common feature, and the least contested aspect, of distribution plans.”); *S.E.C. v. Merrill Scott & Assocs.*, 2006 WL 3813320, at \*6-7 (D. Utah 2006) (excluding financial consultant for receivership entity because he “was more intimately involved with [the fraudulent scheme] than the vast majority of clients”).

process, which includes notice and an *opportunity* to be heard, but they are not entitled to repeatedly ignore Court orders that provide the requisite opportunity, thereby disrupting the claims process and wasting Receivership resources. They cannot be allowed to ignore clear instructions to the detriment of hundreds of other investors with approved claims, who are anxiously awaiting the first interim distribution of funds from this Receivership.

Third, the Objectors accuse the Receiver of obscuring, obfuscating, and obstructing their ability to review their claim determinations, but the Court expressly approved the use of claim numbers to protect investor privacy. *See* Doc. 405 (“The purpose of filing this information under seal is to protect the privacy of Oasis investors and the financial repercussions they experienced.”); Doc. 408 (order granting motion).<sup>20</sup> The Receiver has used this procedure without issue on numerous prior occasions. Doc. 405 ¶ 4 (identifying prior cases). In addition, other claimants were able to submit timely objections, which the Receiver addressed in the Distribution Motion. Doc. 694 § III.

Perhaps more importantly, however, the Receiver provided the Objectors with their claim numbers in March 2022 through the Determination Letters, which were sent to both the Objectors’ mailing addresses and to Mr. Winters’ Indiana Office. In addition, the Receiver has cautioned claimants to carefully

---

<sup>20</sup> Counsel for all defendants, including defendant Montie, have always had access to the sealed lists. *See* Doc. 405, Ex. A (listing parties entitled to access).

review their claim determinations on the Receivership website, through various email communications, through mailed letters and instructions, in publicly available Court filings, and through numerous interim reports. All claimants, including the Objectors, are also permitted to contact the Receiver and/or his professionals by telephone or email to clarify simple matters like claim numbers. The Objections are devoid of evidence or factual explanation as to why the claimants purportedly never reviewed any of the Receiver's communications or contacted the Receiver to resolve their alleged issues.

Put simply, the Objections are frivolous, untenable, and without evidentiary support. Indeed, they are expressly contradicted by all record evidence, and their filing constitutes potential misconduct.

## **II. THE OBJECTIONS ARE IMPROPER, CAUSE UNNECESSARY DELAY, AND NEEDLESSLY INCREASE LITIGATION COSTS**

As the Court is well-aware, filings like the Objections are part of a pattern of delay and obstruction orchestrated by certain defendants, their ghostwriters, and their affiliated claimants. For example and as discussed above, in mid-April 2022, approximately 150 individuals, including all the Objectors, filed Notices. *See* Docs. 489-586, 588-636 (stricken filings). The Notices asked the Court to prohibit the Receiver from making any distributions to any claimants until a final judgment has been entered in this action. On April 18, 2022, the Court *sua sponte* struck the Notices and certain related

“declarations” from the docket as a “scheme” to undermine the Receivership. See Doc. 638 at 7 (“[T]he deluge of identical filings seems to the Court merely to be a scheme — clearly led and directed by one person or a group of people — to disrupt the orderly administration of this Receivership case.”). After striking the Notices, the Court expressly directed the claimants to follow the Objection Procedure. *Id.* at 9 (“To the extent the [n]otice [c]laimants object to the Receiver’s determination of their claim allowance or amount, they must use the established [O]bjection [P]rocedure. Thus, to the extent the Notices can be construed as objections to claim determination, claim priority, or the plan of distribution, such objection is denied without prejudice to the claimant’s ability to timely submit an objection to the Receiver in accordance with the established [O]bjections [P]rocedure process.”).

John Paniagua (Docs. 495, 623, 624), Henry Fuksman (Doc. 526), Lance Wren (Doc. 562), Casey Utter (Doc. 611), Robert Parker Utter (Doc. 614), and Michele Utter (Doc. 615) all participated in this scheme to undermine the Receivership by filing the Notices and/or declarations. Despite the Court’s express instruction, they never raised any of the substantive matters about which they now complain through the Objection Procedure. Further, any argument that the Objectors lacked sufficient notice of their claim determinations or governing procedures is demonstrably false, frivolous, and sanctionable, given their past conduct and the Receiver’s evidence.



The Objectors have also needlessly delayed the claims process by engaging in gamesmanship regarding their connection with Brent Winters and their interactions with the Receiver. In their June 2020 Proof of Claim Forms, they all designated Winters and his Indiana Office as their point of contact and “one” mailing address. In their April 2022 Personal Verification Forms, however, they all declared that Winters does not represent them in connection with the claims process. In the meantime, several Objectors filed frivolous documents with the Court “in propria persona.” *See, e.g.*, Doc. 526 at 11. In January 2023 – long after all pertinent deadlines lapsed – Winters contacted the undersigned, proffering new declarations and again purporting to represent the Objectors (as well as hundreds of others who have similarly disclaimed representation). Now, in February 2023, Mr. Kurpiers – defendant DaCorta’s attorney – has filed notices of appearance on behalf of the Objectors.<sup>21</sup> Given this pattern of behavior, the Objections can only be seen as

---

<sup>21</sup> Mr. Kurpiers filed a notice of appearance as counsel for defendant DaCorta on July 29, 2022. Doc. 654. As the Court is aware, DaCorta was criminally convicted of defrauding Oasis investors, including the Objectors, and sentenced to 23 years in prison. As such, Mr. Kurpiers simultaneously represents both a convicted criminal and certain of his purported victims. The Receiver has not attempted to determine whether that conflict is waivable, and if so, whether Mr. Kurpiers has obtained the requisite waivers, but pertinent rules of professional conduct are certainly implicated. Indeed, Mr. Kurpiers filed a second motion to dismiss the CFTC’s complaint in this action on August 19, 2022. Doc. 663. The Court held a hearing on December 22, 2022, which the undersigned attended along with CFTC representatives from Kansas City, but during the hearing, Mr. Kurpiers immediately abandoned all his arguments and conceded that his motion should be denied. *See* Doc. 701. Mr. Kurpiers nevertheless complained about the fees charged by the Receiver and his professionals, but bad-faith filings like DaCorta’s second motion to dismiss, the Notices, and the instant Objections only increase  
(footnote cont’d)

attempts to hold the first interim distribution hostage to excuse negligence, at best, and failed gamesmanship, at worst.

Similarly, each Objector's circumstances are slightly different, but they all seem perfectly capable of sending false and frivolous documents from their home addresses and communicating with Winters, the Receiver, or the Court when it suits them, including their Proof of Claim Forms, altered Personal Verification Forms, various purported declarations, "in propria persona" filings, and at least one obstructive Fact Information Sheet. But they purportedly did not receive the Determination Letters or any other communications urging claimants to carefully review the Claims Determination Motion and its exhibits.

### **CONCLUSION**

For these reasons, the Court should overrule the Objections.

---

costs to the Receivership, lessen recoveries for all claimants, and waste judicial and governmental resources.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that, on February 22, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which served all counsel of record and *pro se* defendant Duran, who has been afforded e-filing privileges.

**s/ Jared J. Perez**

Jared J. Perez, FBN 0085192  
Jared.Perez@JaredPerezLaw.com  
Jared J. Perez P.A.

*and*

Lawrence J. Dougherty, FBN 0068637  
ldougherty@guerraking.com  
GUERRA KING P.A.  
1408 N Westshore Blvd., Suite 1010  
Tampa, FL 33607  
T: (813) 347-5100  
F: (813) 347-5198

*Attorneys for Receiver, Burton W. Wiand*