

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

COMMODITY FUTURES TRADING
COMMISSION,

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

Plaintiff,

v.

OASIS INTERNATIONAL GROUP,
LIMITED; OASIS MANAGEMENT, LLC;
SATELLITE HOLDINGS COMPANY;
MICHAEL J. DACORTA; JOSEPH S.
ANILE, II.; RAYMOND P MONTIE III;
FRANCISCO “FRANK” L. DURAN; and
JOHN J. HAAS,

Defendants,

and

FUNDAMINISTRATION, INC., et al.,

Relief Defendants.

_____ /

**RECEIVER’S MOTION TO APPROVE SETTLEMENT OF
JUDGMENT AGAINST ROCCO GARBELLANO**

Burton W. Wiand, as receiver over the assets of the above-captioned defendants and relief defendants (the “**Receiver**” and the “**Receivership**”), moves the Court to approve a settlement worth at least \$165,000 with clawback judgment debtor Rocco Garbellano (“**Garbellano**”). The resolution of

the Receiver's judgment and other potential claims against Garbellano will conserve the parties' and the Court's resources. Given the risks inherent in litigation and the desire to conserve resources, the Receiver believes the settlement in this motion is reasonable, equitable, and in the best interests of the Receivership.

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**"); Haas; and 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**"). The foregoing defendants and relief defendants are referred to as the "**Receivership Entities.**"

The CFTC's complaint charged the defendants with violations of the Commodity Exchange Act and CFTC regulations and sought to enjoin their violations of these laws regarding a fraudulent foreign currency trading

scheme. The CFTC alleged that between mid-April 2014 and April 2019, the defendants fraudulently solicited over 700 U.S. residents to invest in two commodity pools – Oasis Global FX, Limited and Oasis Global FX, S.A. The CFTC also asserted that the defendants raised approximately \$75 million from these investors and misappropriated over \$28 million of the pool funds to make payments to other pool participants and over \$18 million for unauthorized personal and business expenses, including the transfer of at least \$7 million to the relief defendants.¹

At the CFTC’s request, the Court appointed the Receiver on April 15, 2019 and 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.” Doc. 7 at p. 14, ¶ 32

¹ On June 12, 2019, the CFTC filed an amended complaint (Doc. 110), which contained additional allegations about certain defendants and relief defendants. On June 13, 2023, the CFTC entered into a consent order with defendant Montie, and on June 28, 2023, the agency entered into a consent order with defendant Haas. The CFTC also entered into consent orders with defendants Anile, Duran, OIG, Oasis Management, and Satellite Holdings. On December 15, 2023, the Court granted the CFTC’s motion for entry of the consent orders. *See* Docs. 783, 786-90.

On July 17, 2023, the CFTC filed a motion for summary judgment against defendant DaCorta (Doc. 749), and on the same day, DaCorta filed a motion for summary judgment against the CFTC (Doc. 750). On December 6, 2023, the Court granted the CFTC’s motion for summary judgment and denied DaCorta’s motion. Doc. 780.

& p. 15, ¶ 30.b. On July 11, 2019, the Court entered a Consolidated Receivership Order, which combined and superseded two prior orders (Docs. 7 & 44) and is now the operative document governing the Receiver's activities. See Docs. 177 & 390 (collectively, the "**Consolidated Order**").

The Court found that entry of the Consolidated Order was necessary and appropriate for the purposes of marshaling and preserving all assets, including in relevant part, assets that "were fraudulently transferred by the Defendants and/or Relief Defendants." Doc. 177 at 2. The Consolidated Order authorized, empowered, and directed the Receiver to "investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted...." *Id.* ¶ 44. The Court also authorized the Receiver "to sue for and collect, recover, receive and take into possession all Receivership Property" (*id.* ¶ 8.B.) and "[t]o bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver" (*id.* ¶ 8.I.). Similarly, the Court authorized, empowered, and directed the Receiver to "prosecute" actions "of any kind as may in his discretion, and in consultation with the CFTC's counsel, be advisable or proper to recover and/or conserve Receivership Property." *Id.* ¶ 43.

The Receiver's Judgment Against Garbellano

On November 4, 2020, the Receiver obtained a judgment against Garbellano in the amount of \$327,928.51 based on claims brought pursuant to

the Florida Uniform Fraudulent Transfer Act. *See Wiand v. Arduini et al.*, Case No. 8:20-cv-00862 (M.D. Fla.) (the “**Clawback Action**”). Arduini then retained counsel and unsuccessfully attempted to have the judgment set aside for various purported reasons. On May 5, 2022, just prior to an evidentiary hearing on his arguments regarding the validity of the judgment, Garbellano filed a Chapter 13 bankruptcy petition in New York. The Receiver moved to dismiss the proceeding, arguing it was filed in bad faith. On November 17, 2022, the bankruptcy court dismissed Garbellano’s petition, and the Receiver promptly resumed his collection efforts.

Settlement with Garbellano

Garbellano, along with his sister, inherited a partial interest in a home located at 6 Siscar Place, Beacon, New York (the “**Property**”). The Receiver filed a lien against the Property, which Garbellano now desires to sell in settlement of the Receiver’s judgment from the Clawback Action. The Property is worth approximately \$380,000, and net proceeds are estimated to be \$175,000. Pursuant to the settlement agreement, Garbellano ceded his interest in the Property to the Receiver. Once the Property is sold, the Receiver will be entitled to \$165,000 or the net settlement proceeds, whichever is greater. A copy of the settlement agreement is attached as **Exhibit A**.

The settlement was reached after extensive discussions with Garbellano, including the exchange of financial information and the evaluation of the

Receiver's prospects of collection. The Receiver evaluated Garbellano's assets and his ability to satisfy the judgment and believes that the settlement provides a reasonable maximization of funds that could realistically be collected from Garbellano.

MEMORANDUM OF LAW

The Court's power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *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). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). A court imposing a receivership assumes custody and control of all assets and property of the receivership, and it has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate. *See S.E.C. v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *S.E.C. v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980). A court may enter such orders as may be appropriate and necessary for a receiver to fulfill his duty to preserve and maintain the property and funds within the receivership estate. *See, e.g., Official Comm. Of Unsecured Creditors of Worldcom, Inc. v. S.E.C.*, 467 F.3d 73, 81 (2d Cir. 2006). Any action taken by a district court in the exercise of its discretion is subject to great deference by appellate courts. *See*

United States v. Branch Coal, 390 F.2d 7, 10 (3d Cir. 1969). Such discretion is especially important considering that one of the ultimate purposes of a receiver's appointment is to provide a method of gathering, preserving, and ultimately liquidating assets to return funds to creditors. *See S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (court overseeing equity receivership enjoys "wide discretionary power" related to its "concern for orderly administration") (citations omitted).

As noted above, the Consolidated Order authorizes, empowers, and directs the Receiver to "investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted...." Doc. 177 ¶ 44. It also authorizes the Receiver "[t]o bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver." *Id.* ¶ 8.I.; *see also* ¶ 8.J. (authorizing the Receiver to "pursue ... all suits, actions, claims, and demands, which may now be pending or which may be brought by ... the Receivership Estates."). Garbellano has negotiated a settlement agreement with the Receiver, taking into consideration the risks inherent in litigation, his ability to pay, and other unique circumstances. This settlement will avoid expensive litigation with Garbellano and also provides substantial financial benefit to the Receivership and an efficient resolution of the judgment.

CONCLUSION

For the foregoing reasons, the Court should approve the settlements, which will avoid unnecessary litigation.

LOCAL RULE 3.01(G) CERTIFICATION

The Consolidated Order requires the Receiver to consult with the CFTC regarding certain litigation. *See* Doc. 177 ¶ 43. As such, undersigned counsel for the Receiver has conferred with counsel for the CFTC and is authorized to represent to the Court that the CFTC does not oppose the relief requested in this motion. Like most of his previous motions to approve settlements (*see, e.g.*, Docs. 280, 281, 312, 314, 350, 357, 379, 383, 399, 404, 822), the Receiver's counsel has not conferred with the United States (as an intervening party) or counsel for any of the defendants in this case because, among other reasons, (1) the criminal action against DaCorta that the United States sought to protect through intervention has concluded with DaCorta's conviction and unsuccessful appeal, and (2) this Court has entered final judgments against DaCorta and the other defendants (*see supra* fn. 1 (although DaCorta's civil appeal is still pending)).

Respectfully submitted,

/s/ Jared J. Perez

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*Attorneys for Burton W. Wiand,
Receiver*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 29, 2024, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I have also provided the following non-CM/ECF participants with a true and correct copy of the foregoing by electronic mail to:

Gerard Marrone
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/s/ Jared J. Perez
Jared J. Perez, FBN 0085192

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is effective July 16, 2024 (the “Effective Date”) by and between Rocco Garbellano and Burton W. Wiand (“Receiver”), (collectively, the “Parties,” and each, individually, a “Party”).

RECITALS

WHEREAS, on November 4, 2020, the U.S. District Court for the Middle District of Florida entered a judgment against Mr. Garbellano in the amount of \$327,928.51, plus post-judgment interest (the “Judgment”).

WHEREAS, on June 14, 2021, the U.S. District Court for the Southern District of New York issued an Abstract of the Judgment (the “Abstract Judgment”).

WHEREAS, on July 2, 2021, the Abstract Judgment was recorded in Dutchess County, New York at document number 534T (the “Judgment Lien”).

WHEREAS, Mr. Garbellano is unable to satisfy the Judgment.

WHEREAS, Mr. Garbellano, along with his sister, Ms. Pomarico, inherited a partial interest in a home located at 6 Siscar Place, Beacon, New York (the “Home”).

WHEREAS, Mr. Garbellano and his sister, Ms. Pomarico, desire to sell the Home that is encumbered by the Receiver’s Judgment Lien.

WHEREAS, according to Handel & Carlini, LLP, real estate counsel to Ms. Pomarico, the Home has a current market value of \$380,000.00.

WHEREAS, according to Handel & Carlini, LLP, if the Home is sold for \$380,000.00, Mr. Garbellano’s share, after expenses associated with the sale (the “Garbellano Net Proceeds”), is reasonably expected to be approximately \$175,000.00 .

WHEREAS, Mr. Garbellano requested that the Receiver satisfy the Judgment in exchange for the Garbellano Net Proceeds, estimated to be approximately \$175,000.00.

WHEREAS, the Receiver is willing to satisfy the Judgment for a minimum of \$165,000.00 or the Garbellano Net Proceeds from the sale of the property, whichever is greater.

NOW, THEREFORE, the Parties desire and intend for good and valuable consideration to release, settle, resolve, extinguish, and commute fully certain past and current claims, demands, and disputes between them:

1. Incorporation of Recitals

Each and every recital above is incorporated by reference as if fully set forth herein.

2. Settlement Payment; Settlement Payment Date

- a. Mr. Garbellano hereby cedes his interest in the Home to the Receiver.
- b. Upon closing of the sale of the Home that generates at least \$165,000.00 in Garbellano Net Proceeds, the Garbellano Net Proceeds will be distributed by Handel & Carlini, LLP directly to the Receiver or his designee in full and final satisfaction of the Judgment, the Abstract Judgment and the Judgment Lien.
- c. In no event shall Mr. Garbellano be liable for any amount above the Garbellano Net Proceeds or \$165,000, whichever is greater.

3. Release

- a. In consideration for paragraph 2 above, the Receiver hereby globally releases, waives and discharges any and all claims against Mr. Garbellano.
- b. The Receiver expressly acknowledges that this Release extinguishes, waives, and discharges any and all claims of any nature against Mr. Garbellano available to the receiver, including claims related to Wiand v. Arduini, et al., Case No.: 8:19-CV-886-T-VMC-33SPF (M.D. Fla. 2020) (“Underlying Action”) or Wiand v. Arduini, et. al., Case No. 8:20-cv-862-T-33TGW (M.D. Fla.) (the “Clawback Case”).
- c. The Receiver expressly acknowledges that this Release extinguishes all rights to pre-judgment interest and post-judgment interest and/or attorneys’ fees for all claims waived herein.
- d. The Receiver will take no other collection or enforcement actions against Mr. Garbellano on any property or in connection with any claim, including claims made in connection with the Underlying Action and the Clawback case.
- e. The Receiver will execute all documents necessary to carry out the closing of the sale of the Home and to carry out the terms of this agreement.
- f. Prior to the closing of the sale of the Home, the Receiver will place in escrow with Englander Fischer
 - a. a Satisfaction of Judgment (the “Satisfaction”) for the Default Judgment entered on November 4, 2020 in the Middle District of Florida case bearing Case No.: 20-cv-862, enclosed herein as Exhibit A or in any other form or any other document reasonably requested by Handel & Carlini, LLP, and
 - b. a Satisfaction of Judgment registered in the Southern District of New York bearing Case No.: 21-mc-00428 and was subsequently recorded in Dutchess County, New York, enclosed herein as Exhibit B, or in any other form or any other document reasonably requested by Handel & Carlini, LLP.

4. Fees and Costs

The Parties agree that they shall be responsible for their own attorneys' fees and costs, including but not limited to fees and costs incurred related to the Underlying Action and/or the Clawback Case claim, including the preparation of this Settlement Agreement. The Parties shall not seek compensation by any further action or proceeding.

5. Authority

Each person executing this Agreement on behalf of a party does hereby personally represent and warrant that he/she has the authority to execute this Agreement on behalf of, and to fully bind, said party.

6. Successors, Assigns, Representatives, and Beneficiaries.

This Agreement and all of its terms shall inure to the benefit of and shall bind the successors, permitted assigns, representatives, and beneficiaries of each of the Parties.

7. Cooperation

The Parties shall cooperate to preserve the validity, finality, and enforceability of this Agreement. The Parties shall use their reasonable best efforts to oppose any and all objections or other efforts to challenge this Agreement.

8. No Representations

This Agreement contains the entire agreement between the Parties with respect to the settlement of the Claim. The terms of this Agreement are contractual in nature in all respects and not a mere recital.

9. Governing Law

This Agreement shall be governed by and construed under the laws of the State of Florida, without regard to conflicts of laws principles.

10. Counterparts

This Agreement may be signed in counterparts and each such counterpart shall be deemed to be an original instrument.



Signature of Authorized Representative for Rocco Garbellano
SAXE DOERNBERGER & VITA, P.C.



Signature of Receiver, Burton W. Wiand

EXHIBIT A

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BURTON W. WIAND, as Receiver for
OASIS INTERNATIONAL GROUP, LTD.;
OASIS MANAGEMENT, LLC; AND SATELLITE
HOLDINGS COMPANY,

Plaintiff,

v.

Case No: 8:20-cv-00862-VMC-TGW

CHRIS AND SHELLEY ARDUINI, et al.,

Defendants.

_____ /

SATISFACTION OF JUDGMENT

Plaintiff, Burton W. Wiand as Receiver for OASIS INTERNATIONAL GROUP, LTD., OASIS MANAGEMENT, LLC, and SATELLITE HOLDINGS COMPANY (“Plaintiff”) and Rocco Garbellano (“Defendant”) entered into a valid and binding settlement agreement in the above-captioned matter on July 16, 2024, by and through undersigned counsel, does hereby acknowledge that all sums due under the settlement agreement have been fully paid and that Final Judgment against Defendant Rocco Garbellano is hereby satisfied and is canceled and satisfied of record.

Dated: _____, 2024

ENGLANDER FISCHER

BEATRIZ MCCONNELL
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ENGLANDER FISCHER

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE:

I hereby certify that on July 16, 2024 a true copy of the foregoing document was filed electronically with the Clerk of Court via the CM/ECF system, and thereby served on all counsel of record.

BEATRIZ MCCONNELL

Exhibit B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BURTON W. WIAND, as Receiver for
OASIS INTERNATIONAL GROUP, LTD. et al.,

Plaintiffs,

v.

Case No: 1:21-mc-00428-PAE

ROCCO GARBELLANO, et. al.,

Defendants.

SATISFACTION OF JUDGMENT

Plaintiff, Burton W. Wiand as Receiver for OASIS INTERNATIONAL GROUP, LTD., OASIS MANAGEMENT, LLC, and SATELLITE HOLDINGS COMPANY (“Plaintiff”) and Rocco Garbellano (“Defendant”) entered into a valid and binding settlement agreement on July 16, 2024 in the case styled *Burton W. Wiand, as Receiver for Oasis Intl., et al., v. Rocco Garbellano, et al.*, pending in the Middle District of Florida bearing Case No.: 20-cv-862, which was subsequently registered in the above-captioned matter on June 14, 2021, and recorded in Dutchess County, New York in 2021 under document number 534T, by and through undersigned counsel, does hereby acknowledge that all sums due under the settlement agreement have been fully paid and that Final Judgment against Defendant Rocco Garbellano is hereby satisfied and is canceled and satisfied of record. The lien is also satisfied and canceled through the above referenced settlement agreement.

Dated: _____, 2024

ENGLANDER FISCHER

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CERTIFICATE OF SERVICE:

I hereby certify that on July 16, 2024 a true copy of the foregoing document was filed electronically with the Clerk of Court via the CM/ECF system, and thereby served on all counsel of record.

BEATRIZ MCCONNELL