

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-23070-Civ-COOKE/TORRES

CONSUMER FINANCIAL PROTECTION
BUREAU,

Plaintiff,

v.

ORION PROCESSING, LLC, a Texas limited liability company, d/b/a World Law Processing, Wld Credit Repair, and World Law Debt; FAMILY CAPITAL INVESTMENT & MANAGEMENT LLC, a Delaware limited liability company, a/k/a FCIAM Property Management; WORLD LAW DEBT SERVICES, LLC, a Delaware limited liability company; WORLD LAW PROCESSING, LLC, a Delaware limited liability company; DERIN SCOTT, an individual; DAVID KLEIN, an individual; and BRADLEY JAMES HASKINS, individually and d/b/a World Law Group, LLP, World Law Group America, LLP, WLD Price Global, Inc., World Law Forms and Mediation, and World Law South;

Defendants,

SHANNON SCOTT, an individual,

Relief Defendant.

MOTION FOR ORDER APPROVING RECEIVER'S PROPOSED PLAN OF DISTRIBUTION AND AUTHORIZING RECEIVER TO MAKE INTERIM DISTRIBUTION OF ESTATE FUNDS TO PLAINTIFF CONSUMER FINANCIAL PROTECTION BUREAU; CERTIFICATION OF COUNSEL UNDER LOCAL RULE 7.1(a)(3); MEMORANDUM OF POINTS AND AUTHORITIES

Robb Evans & Associates LLC as Receiver ("Receiver") over Family Capital Investment & Management, LLC ("FCIAM"), and its successors, assigns, affiliates, or subsidiaries, and each of them, by whatever names each might be known, provided that the Receiver has reason to believe they are owned or controlled in whole or in part by any of the Defendants, and World

Law Debt Services, LLC (“World Law Debt”) and World Law Processing, LLC (“World Law Processing”), and their successors, assigns, affiliates, or subsidiaries, and each of them, by whatever names each might be known, provided that the Receiver has reason to believe they are owned or controlled in whole or in part by any of the Defendants (collectively the “Receivership Defendants”), hereby moves the Court for an order for the following relief:

1. Approving the Receiver’s proposed plan of distribution of the assets of the receivership estate pursuant to which (a) the Receiver will pay forthwith in full the tax claim of the Internal Revenue Service in the amount of approximately \$2,000.00; (b) the Receiver will not implement any claims allowance and payment process for pre-receivership, non-consumer, non-priority claims and will not pay those claims; and (c) the Receiver will pay all other receivership assets, net of expenses, including administrative, Receiver and professional fees and expenses and other receivership obligations, to plaintiff Consumer Financial Protection Bureau (the “Bureau”) pursuant to the Default Judgment and Order Against World Law Debt Services, LLC, World Law Processing, LLC and Family Capital Investment & Management LLC entered on August 1, 2016 (Doc. 104) (“World Law Judgment”); and

2. Authorizing the Receiver to make an interim distribution of receivership funds to the Bureau in the sum of \$8 million from funds in the estate, with the Receiver retaining approximately \$393,000 in funds in the receivership as a reserve for potential receivership expenses pending the final wind up of the receivership.

This Motion is made pursuant to Local Civil Rule 7.1 and based on this motion, the supporting memorandum of points and authorities, the Declaration of Brick Kane, the proposed order on this motion, the pleadings, records and files of the Court in this action of which the Receiver requests the Court take judicial notice pursuant to Federal Rule of Evidence 201,

including without limitation the World Law Judgment, and on such oral and documentary evidence and arguments of counsel as may be presented at any hearing on the Motion.

WHEREFORE, the undersigned moves this Court to enter an Order granting relief as requested herein.

CERTIFICATION OF COUNSEL UNDER LOCAL RULE 7.1(a)(3)

Counsel for the Receiver hereby certifies that prior to filing this motion, the Receiver conferred with counsel for the plaintiff Consumer Financial Protection Bureau (“Bureau”) by telephone on July 20, 2017 in a good faith effort to address the issues raised in this Motion. Counsel for the Bureau advised counsel for the Receiver that the Bureau does not object to the relief sought by the Receiver in this Motion. Other parties affected by this motion are the defendants subject to the receivership whose assets the Receiver proposes to turn over to the Bureau, including World Law Debt Services, LLC, World Law Processing, LLC, and Family Capital Investment & Management LLC, all of which never made an appearance in the action, were defaulted, and have had a default judgment rendered against them pursuant to the World Law Judgment.

Other interested non-parties to this action which may be affected by the Motion are potential creditors of the receivership estate other than consumer creditors whose claims may be addressed by the Bureau through a potential redress program. The non-consumer creditors known to the Receiver have been served with copies of the motion pleadings. There are 14 non-consumer with claims aggregating approximately \$79,000 as described in the motion, and it is impractical to attempt to meet and confer with them prior to filing the Motion. Further, based on the nature of the relief sought and the Receiver’s role as fiduciary for

the estate, the matters raised in this Motion cannot be resolved by the parties alone as it is essential that the Motion be reviewed by the Court and any distribution of funds approved by Court order.

Dated: July ____, 2017

Respectfully submitted,

By: /s/ Michael E. Strauch

Merrick L. Gross

Florida Bar No. 716677

Michael E. Strauch

Florida Bar No. 13988

CARLTON FIELDS

Miami Tower

100 S.E. 2nd Street, Suite 4200

Miami, Florida 33131

Tel: (305) 530 – 0050

Fax: (305) 530 – 0055

E-mail: mgross@carltonfields.com

powers@carltonfields.com

mstrauch@carltonfields.com

iabay@carltonfields.com

Local Counsel for Receiver

By: /s/ Gary Owen Caris

Gary Owen Caris

Appearing *Pro Hac Vice*

California Bar No. 088918

Lesley Anne Hawes

Appearing *Pro Hac Vice*

California Bar No. 117101

DIAMOND MCCARTHY LLP

1999 Avenue of the Stars, Suite 1100

Los Angeles, CA 90067

Tel: (310) 651-2997

Fax: (424) 253-1101

E-mail: gcaris@diamondmccarthy.com

lhawes@diamondmccarthy.com

Lead Counsel for Receiver

MEMORANDUM OF LAW

I. INTRODUCTION AND SUMMARY OF RELEVANT FACTS

This action is a civil enforcement action filed by plaintiff Bureau. The Receiver was initially appointed a temporary receiver over defendant Family Capital Investment & Management, LLC (“FCIAM”) by an order entered on September 1, 2015 and later as permanent receiver over that entity as well as permanent receiver over defendants World Law Debt Services, LLC (“World Law Debt”) and World Law Processing, LLC (“World Law Processing”).

Receivership Defendants World Law Debt, World Law Processing and FCIAM have not appeared in the action and a default judgment was entered against them on August 1, 2016 (Doc. No. 104) (“World Law Judgment”). The Receiver continues as receiver over the Receivership Defendants under the World Law Judgment. On August 1, 2016, the Court also entered a stipulated judgment against defendants Derin Scott and David Klein and Relief Defendants Shannon Scott pursuant to their Stipulated Final Judgment and Order Against Defendants Derin Scott, David Klein and Relief Defendant Shannon Scott (“Individual Stipulated Judgment”) (Doc. No. 105). Brad Haskins also failed to appear in the action, and a default judgment was entered against Haskins on November 29, 2016. Doc. No. 132. The Court also entered a Consent Judgment between the Bureau and the Chapter 7 Trustee of Orion Processing, LLC on March 22, 2017. Doc. No. 152.

Under the World Law Judgment entered August 1, 2016, the Receiver was originally given 180 days to complete the administration and liquidation of all receivership assets and to file its final report and accounting. The Receiver filed two subsequent motions to extend that deadline, with the latest motion granting an extension of the receivership to June 30, 2018. Doc. No. 168.

The Receiver has cash in the estate of approximately \$8,395,000 net of accrued expenses as of June 30, 2017. The World Law Judgment grants the Bureau a monetary judgment against the Receivership Defendants in the amount of \$106,813,049. World Law Judgment, p. 15, para. 50.¹ In addition, the World Law Judgment provides that “This Order grants to the Bureau all rights and claims that Default Defendants have to Default Defendants’ frozen assets currently in the possession, custody or control of the Receiver or in the receivership estate, and Default Defendants shall forfeit any rights to the funds in the receivership estate” World Law Judgment, p. 15, para. 51. At the conclusion of the receivership, the World Law Judgment provides for the Receiver to “pay all remaining funds to the Bureau within ten (10) days” after the Receiver’s final report and accounting are approved and the Receiver is authorized to wind up the estate. World Law Judgment, p. 19, para. 72.b.

By this Motion, the Receiver seeks approval of its proposed plan for distribution of the estate assets, including its request that no claims allowance and payment process for non-consumer, pre-receivership, nonpriority claims be implemented. Under the World Law Judgment, as set forth above, the Bureau is to receive the assets of the receivership for use in a consumer redress program which will address claims of injured consumers of the Receivership Defendants. World Law Judgment, p. 16, para. 53. Consistent with that judgment, the Receiver seeks approval to pay all receivership assets to the Bureau, after payment of a small priority tax claim and all receivership expenses, including Receiver and professional fees and expenses and other administrative obligations. The Receiver seeks permission of the Court to pay the Bureau most of the liquid receivership assets as an interim distribution now in the amount of \$8 million

¹ The Receiver cites to both the page and paragraph numbers in the World Law Judgment because there appear to be some inadvertent duplication of relevant paragraph numbers.

pending the final wind up of the receivership by June 30, 2018, with the Receiver retaining approximately \$393,000 in the estate for potential receivership expenses.

Under the circumstances of this case, the Receiver does not propose implementing a claims allowance and objection process or paying any claims of pre-receivership non-consumer creditors, except that the Receiver will pay a small tax claim of approximately \$2,000 owed to the Internal Revenue Service which has a priority right to payment under 31 U.S.C. section 3713. First, the World Law Judgment requires the Receiver to turn over the net receivership funds after payment of receivership expenses to the Bureau. Second, for the World Law Receivership Defendants, there are virtually no books and records from which the Receiver can ascertain the existence of potential pre-receivership creditors. For other receivership entities, the books and records available indicate there are an aggregate of approximately \$79,000 in outstanding unpaid pre-receivership non-consumer, non-priority claims. Even if these creditors shared pro rata in the receivership assets with the consumer claimants, in contravention of the terms of the World Law Judgment, their claims would be dwarfed by the consumer claimant creditors: in total the non-consumer creditors would only be paid approximately \$5,900. This calculation is based on an \$8 million distribution and total creditors of approximately \$107 million, which results in a distribution of approximately 7.5%. The expense and burden on the estate of attempting to review, allow and distribute the \$5,900 to the individual non-consumer creditors coupled with the explicit provisions of the World Law Judgment that grant the Bureau the rights of the Defaulted Defendants in those funds and require the Receiver to turn over all net receivership funds to the Bureau make it appropriate for the Court to approve the Receiver's proposed distribution of funds to the Bureau.

II. **THE COURT HAS BROAD DISCRETION TO APPROVE A RECEIVER'S PROPOSED DISTRIBUTION PLAN BASED ON EQUITY AND REASONABLENESS**

Two of the leading cases addressing the role of the District Court in supervising a federal equity receivership are *Securities and Exchange Commission v. Elliott*, 953 F. 2d 1560 (11th Cir. 1992) and *Securities Exchange Commission v. Hardy*, 803 F. 2d 1034 (9th Cir. 1986). The Eleventh Circuit confirmed the powers of the District Court in *Securities and Exchange Commission v. Elliott*, 953 F. 2d 1560, stating:

The district court has broad powers and wide discretion to determine relief in an equity receivership. *SEC v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir.1982); *SEC v. Lincoln Thrift Ass'n*, 577 F.2d 600, 609 (9th Cir.1978); *SEC v. United Financial Group, Inc.*, 474 F.2d 354, 358 (9th Cir.1973). This discretion derives from the inherent powers of an equity court to fashion relief. *Safety Finance*, 674 F.2d at 372.

Securities and Exchange Commission v. Elliott, 953 F. 2d at 1565.

In *Hardy*, the Ninth Circuit also discussed the broad discretion of the district court in supervising a federal equity receivership:

[A] district court's power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad. . . . The basis for broad deference to the district court's supervisory role in

equity receivership arises out of the fact that most receiverships involve multiple parties and complex transactions.

Securities and Exchange Commission v. Hardy, 803 F. 2d at 1037.

The Court's broad discretion is applicable to the Court's review of a receiver's proposed plan to distribute the assets of the receivership. *Securities and Exchange Commission v. Forex Asset Management*, 242 F. 3d 325, 331 (5th Cir. 2001) ("the district court, acting as a court of equity, is afforded the discretion to determine the most equitable remedy" in determining whether to approve a plan of distribution); *CFTC v. Walsh*, 712 F. 3d 735, 749-750 (2d Cir. 2013). As the Second Circuit in the *Walsh* decision explained:

The decision of a district court as to "the choice of distribution plan for [a] receivership estate" is reviewed "for abuse of discretion." [Citations omitted.] "A district court has 'abuse[d] its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence," [citations omitted], or rendered a decision that 'cannot be located within the range of permissible decisions,' [citations omitted]."

CFTC v. Walsh, 712 F. 3d at 749-750. See also *Securities and Exchange Commission v. Wang*, 944 F. 2d 80, 83-84 (2d Cir. 1991) (court may approve a receiver's distribution plan that is fair and reasonable).

The Receiver's proposed plan of distribution, including its proposal to make an interim distribution to the Bureau and to not provide a claims allowance or payment procedure for pre-receivership, nonpriority, non-consumer claims, is fair, reasonable and appropriate under the circumstances. The proposed distribution plan is effectively mandated by the World Law

Judgment and the rights accorded to the Bureau under that judgment which give the Bureau the right to all net receivership funds. Even without the explicit requirements of the World Law Judgment that require the funds to go to the Bureau, the time, expense and burden on the estate of any claims allowance and payment procedure for nonpriority, pre-receivership, non-consumer claims far outweighs the *de minimis* sums which would be distributed in the aggregate on those claims. Further, an interim distribution is appropriate in that the estate will retain sufficient funds to address any expenses or matters that may arise until the estate is wound up in June 2018 while allowing the Bureau to receive the vast majority of the liquid assets so that it may promptly begin a consumer redress program.

III. CONCLUSION

For the reasons set forth herein, the Receiver respectfully requests that the Court grant this Motion and the relief sought herein.

Dated: July 21, 2017

Respectfully submitted,

By: /s/ Michael E. Strauch

Merrick L. Gross

Florida Bar No. 716677

Michael E. Strauch

Florida Bar No. 13988

CARLTON FIELDS

Miami Tower

100 S.E. 2nd Street, Suite 4200

Miami, Florida 33131

Tel: (305) 530 – 0050

Fax: (305) 530 – 0055

E-mail: mgross@carltonfields.com

powers@carltonfields.com

mstrauch@carltonfields.com

iabay@carltonfields.com

Local Counsel for Receiver

By: /s/ Gary Owen Caris

Gary Owen Caris

Appearing *Pro Hac Vice*

California Bar No. 088918

Lesley Anne Hawes

Appearing *Pro Hac Vice*

California Bar No. 117101

DIAMOND MCCARTHY LLP

1999 Avenue of the Stars, Suite 1100

Los Angeles, CA 90067

Tel: (310) 651-2997

Fax: (424) 253-1101

E-mail: gcaris@diamondmccarthy.com

lhawes@diamondmccarthy.com

Lead Counsel for Receiver

From Article at GetOutDebt.org

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF or electronic mail on July 21, 2017 on all counsel or parties of record on the Service List below.

/s/ Michael E. Strauch

SERVICE LIST

Laura Beth Schneider
Consumer Financial Protection Bureau
1700 G. Street, NW
Attn: Enforcement
Washington, DC 20552
Tel: (202) 435-7311
Email: laura.schneider@Bureau.gov
Attorneys for Plaintiff
Consumer Financial Protection Bureau
BY CM/ECF

David Klein, pro se
9312 Knoll Crest Loop
Austin, TX 78759
Email: texasusa2@gmail.com
BY EMAIL

Derin Scott, pro se
4621 Doris Drive
New Smyrna Beach, FL 32316
Email: derinScott@yahoo.com
BY EMAIL

Shannon Scott, pro se
4621 Doris Drive
New Smyrna Beach, FL 32316
Email: sndscott@me.com
BY EMAIL

Mark C. Taylor, Esq.
Waller Lansden Dortch & Davis, LLP
100 Congress Avenue, Suite 1800
Austin, Texas 78701
Email: Mark.Taylor@wallerlaw.com
BY EMAIL

A.Clifford Edwards
Triel D. Culver
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
Billings, Montana 59102
BY U.S. MAIL

Company Name	Address 1	Address 2	City	State	Zip Code
ABC Home & Commercial Services	9475 E. Highway 290		Austin	TX	78724-2303
ADP, J.L.C	400 Covina Blvd		San Dimas	CA	91773
Advanced Filtration Systems, LP	3101 Longhorn Blvd.	Suite 114	Austin	TX	78758
Agents and Corporations, Inc.	P.O. Box 511		Wilmington	DE	19899-0511
American Arbitration Association	950 Warren Ave.		East Providence	RI	02914
Appointment Plus	15300 N. 90th St.	#100	Scottsdale	AZ	85260
Arthur J. Gallagher & Co.	Attn: Craig Coon	221 W. 6th St., Suite 1980	Austin	TX	78701
AT&T Mobility	P.O. Box 6463		Carol Stream	IL	60197-6463
Ben Bretz	1906 Dayflower Trace		Cedar Park	TX	78613
BlueCross BlueShield of Texas	P.O. Box 655730		Dallas	TX	75265-5730
California Department of Tax and Fee Administration	450 N Street , MIC 55		Sacramento	CA	95814
California Board of Equalization	P.O. Box 942879		Sacramento	CA	94279-0056
Citibank, N.A. c/o Capital Management Services, LP	698 1/2 S. Ogden Street		Buffalo	NY	14206-2317
Citibank, N.A. c/o Capital Management Services, LP	P.O. Box 390905		Minneapolis	MN	55439
Data Foundry, Inc.	P.O. Box 730396		Dallas	TX	75373-0396
David Kleinn					
David Smith c/o Diony Romo	404 Rio Grande St.	Apt. 423	Austin	TX	78701
Derin Scott					
Discover Bank c/o Zwicker & Associates, P.C.	P.O. Box 9013		Andover	MA	01810
Florida Department of Economic Opportunity	107 E. Madison St.	Caldwell Building	Tallahassee	FL	32399-4120
Florida Department of Revenue	5050 W. Tennessee St.		Tallahassee	FL	32399-0100
Internal Revenue Service	Mail Stop 5730, Room 165	7850 SW 6th Court	Plantation	FL	33324
Internal Revenue Service			Memphis	TN	38101-0017
Internal Revenue Service			Ogden	UT	84201-0039
Internal Revenue Service			Ogden	UT	84201
King Law Group PLLC	1326 West Highway 290	Suite A	Dripping Springs	TX	78620
Office of the Ohio Consumers' Counsel	Attn: Assessments	10 W. Broad St., Suite 1800	Columbus	OH	43215-3485
perma USA	2129 Center Park Dr.		Charlotte	NC	28217
Plane Smart	15841 Addison Rd.		Addison	TX	75001
PUCO	180 East Broad St.		Columbus	OH	43215-3793
Seacoast Commerce Bank	11939 Rancho Bernardo Rd.	Suite 200	San Diego	CA	92128
Shred-it Austin	4129 Commercial Center Dr.	Suite 475	Austin	TX	78744
Spectrum (Formerly Time Warner Cable)	P.O. Box 85100		Austin	TX	78708-5100
Stamps.com	P.O. Box 202928		Dallas	TX	75320-2928
TD Bank USA, N.A. c/o CIR Law Offices	P.O. Box 23189		San Diego	CA	92193-3189
Texas Comptroller of Public Accounts	P.O. Box 13528	Capitol Station	Austin	TX	78711-3528
Texas Workforce Commission	101 E. 15th St.	Room 665	Austin	TX	78778-0001
Time Warner Cable	P.O. Box 85100		Austin	TX	78708-5100
Travis Central Appraisal District	P.O. Box 149012		Austin	TX	78714-9012
XO Communications	P.O. Box 970205		Dallas	TX	75397-0205