

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Miami Division)
Case No.: 10-22078-CV-MORENO/OTAZO-REYES

SECURITIES & EXCHANGE COMMISSION,

Plaintiff,

vs.

ESTATE OF KENNETH WAYNE MCLEOD,
F & S ASSET MANAGEMENT GROUP, INC. and
FEDERAL EMPLOYEE BENEFITS GROUP, INC.,

Defendants.

RECEIVER'S STATUS REPORT REGARDING OBJECTIONS FILED IN RESPONSE
TO RECEIVER'S MOTION (I) TO SET AMOUNT OF DISPUTED CLAIMS AND (II)
ESTABLISH PROCEDURE TO CALCULATE CLAIMS DISTRIBUTION

Michael I. Goldberg, (the "Receiver") in his capacity as receiver for Defendants, F & S Asset Management Group, Inc. and Federal Employee Benefits Group, Inc., files this Status Report pursuant to the Honorable Alicia M. Otazo-Reyes' Order Requiring Status Report dated November 4, 2013 [D.E. 101] regarding potential objections made in response to the Receiver's Motion (I) To Set Amount of Disputed Claims and (II) Establish Procedure to Calculate Claims Distribution, and states as follows:

On October 4, 2013, the Receiver filed his Motion (I) To Set Amount of Disputed Claims and (II) Establish Procedure to Calculate Claims Distribution [D.E. 94] (the "Claim Motion").¹ Pursuant to the Claim Motion, the Receiver objected to five (5) specific claims filed by alleged trade creditors (the "Creditor Claimants") and also sought to set the claim amounts of 104 investor victims (the "Investor Claimants").² The Claim Motion was referred to Magistrate

¹A copy of the Claim Motion was posted on the Receiver's website at www.febginfo.com on that same date.

²A complete list of the Investor Claimants is attached as Exhibit "D" to the Claim Motion.

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Judge Alicia Otazo-Reyes by the Honorable Federico A. Moreno, United States District Court Judge [D.E. 96]. On October 11, 2013, a copy of the Claim Motion was served by U.S. Mail on the Creditor Claimants as set forth in the Supplemental Certificate of Service filed with this Court [D.E. 98].

In response to the Claim Motion, the Receiver was contacted by counsel for one of the Creditor Claimants, Capital Analysts, Inc. ("CAI"), who advised that CAI was voluntarily withdrawing its claim in the amount of \$15 million. The Receiver notes that although no formal withdrawal has been filed by CAI to date, CAI did not file a response to the Claim Motion by the response deadline of October 25, 2013. Additionally, none of the four (4) remaining Creditor Claimants have filed responses with the Court or have sent written responses to the Receiver.

On October 15, 2013, the Receiver also served a copy of the Claim Motion by U.S. Mail on all Investor Claimants as set forth in the Supplemental Certificate of Service filed with this Court [D.E. 100].³ Accompanying the Claim Motion was an individualized letter to each Investor Claimant specifying the Receiver's recommended treatment of their claim, including the amount of their proposed new claim. The deadline to file an objection by these claimholders expired on October 29, 2013. On November 12, 2013, the Receiver received a copy of a letter from Investor Claimants, William & Cynthia Smith (collectively, the "Smiths"), disputing the Receiver's treatment of their claim based on their assertion that the Receiver is unable to apply collateral source recoveries to reduce their claim.⁴ The Receiver asserts that he is legally entitled to reduce Investor Claimants' claims by the amount of their recoveries against third parties and is

³ Claimholders listed on Exhibit "D" were identified as investors who either received pre-receivership distributions from the Receivership Entities and/or funds from collateral sources.

⁴ Although the letter is dated October 31, 2013, the postal service stamp indicates the letter was mailed on November 4, 2013. The Receiver did not receive Claimants' letter until November 12, 2013. Moreover, the Smiths' objection did not appear on the Court's docket until November 13, 2013.

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prepared to brief the issue, if requested by the Court.⁵No other written objections from any Investor Claimant has been filed with the Court or received by the Receiverts.⁶

Unless the Court deems it necessary to brief the issue on collateral source recoveries, the Receiver intends on filing a motion with the Court seeking approval to make his sole and final distribution to claimholders with undisputed claims in the next several weeks.

Respectfully submitted,

Akerman LLP (f/k/a Akerman Senterfitt LLP or Akerman Senterfitt)

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By: Michael I. Goldberg

Michael I. Goldberg, Receiver
Florida Bar No.: 886602

⁵The Receiver notes that the Smiths' response is untimely. Thus, the Receiver asserts that the Court should not require the Receiver to incur the expense of replying to the Smiths' untimely response as preparing and filing a response will cost money and unnecessary penalize the other 103 Investor Claimants in a case that is already going to have a minimal distribution.

⁶The Receiver also received one telephone call from Investor Claimant who had questions concerning the amount of her claim. The Receiver spoke to this Investor Claimant and answered her questions and she has elected not to file a formal response.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November 2013, I electronically filed the foregoing Status Report with the Clerk of the Court by using the CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record and other interested parties identified on the attached Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic notices.

By: /s/ Michael I. Goldberg
Michael I. Goldberg, Receiver
Florida Bar No.: 886602

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SERVICE LIST

1:10-cv-22078-FAM

Notice has been electronically mailed to:

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Notice has been sent by U.S. Mail to:

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Notice has been sent by U.S. Mail to:

All Investor Creditors listed on Exhibit "D" attached to Receiver's Claim Motion.

Notice has been posted on the Receiver's website at:
www.febginfo.com