

MAY 21 2024

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

RICK WARREN
COURT CLERK

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Oklahoma Department of Securities)
<i>ex rel.</i> Melanie Hall, Administrator,)
)
Plaintiff,)
v.)
)
Premier Global Corporation, et al.,)
)
Defendants.)

Case No. CJ-2022-5066
Judge Don Andrews

**RESPONSE OF DEFENDANTS RICHARD DALE DEAN AND DDIA
IN OBJECTION TO PLAINTIFF’S MOTION TO STRIKE CROSS-CLAIM AND THE
RECEIVER’S JOINDER TO PLAINTIFF’S MOTION TO STRIKE CROSS-CLAIM**

Defendants Richard Dale Dean (“Mr. Dean”) and DDI Advisory Group LLC (“DDIA”) file this response in objection to Plaintiff’s Motion to Strike Cross-Claim to which the Receiver joined and state as follows:

1. Plaintiff Oklahoma Department of Securities (“Plaintiff”) filed its original Petition on October 13, 2022, alleging that Mr. Dean (individually or through DDIA) was the mastermind of an \$800 million Ponzi scheme. Plaintiff has repeatedly represented to the Court that Mr. Dean controlled the fraudulent movement of funds between Premier Global Corporation and the Premier Factoring Entities, created fabricated invoices that were presented to this Court, and was *the* key player in defrauding investors.

2. Plaintiff then amended its Petition after sensing that its allegations against Mr. Dean as a criminal mastermind of the supposed Ponzi scheme will not hold up to scrutiny. In Plaintiff’s Amended Petition, Plaintiff added an additional, or alternative, cause of action against Mr. Dean and DDIA for “materially aiding” *Steve Parish’s violations* of the Securities Act.

3. Plaintiff's Motion to Strike argues that the cross-claims against Steve Parish ("Parish") are outside the scope of both the Oklahoma Uniform Securities Act of 2004 ("Act") and the allegations in the Amended Petition. But the Amended Petition demonstrates Plaintiff's apparent recognition that Parish was, in fact, in control of the movement of funds, the creation of any invoices, and any alleged theft of investor funds—*not* Mr. Dean and/or DDIA. Therefore, Plaintiff's "alternative cause of action" provides in-and-of-itself the necessary grounds for Mr. Dean's and DDIA's cross-claims against Parish for breach of fiduciary duty to DDIA (a Member of the Premier Factoring Entities) and for breach of contract (for Mr. Parish's violation of the terms of the Operating Agreements for each of the Premier Factoring Entities).

ARGUMENTS AND AUTHORITIES

I. THE RECEIVERSHIP ORDER DOES NOT PROHIBIT CROSS-CLAIMS.

Nothing in the language of the Receivership Order prohibits the filing of a cross-claim against Premier Global or Steven Parish. To the contract, the Receivership Order entered on October 14, 2022, states as follows:

IT IS FURTHER ORDERED that, except by leave of Court during the pendency of this Order, all creditors and other persons seeking money, damages, lien enforcement, or other relief from any Receivership Entity, and all others acting on behalf of any such creditor or other persons, including sheriffs, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees, are hereby stayed and restrained from doing any act or thing whatsoever (including the continuation of a pending lawsuit), to interfere with the Receiver or to the possession of or management by the Receiver of the Assets or to interfere in any manner during the pendency of this proceeding with the exclusive jurisdiction of this Court over the Receivership Entities.

First, while the Receivership Order allows for a stay, it requires a showing that the claims or actions interfere with the Receiver or the Receiver's management of assets during the pendency of the above-styled litigation. There is no showing that allowing the cross-claim to be filed and proceed interferes with the Receivers management of estate assets. To the contrary, by bringing

this claim in this case, Mr. Dean is ensuring the Receiver's ability to manage the assets—and liabilities and potential liabilities—of Premier Global and/or Steven Parish. Additionally, the cross-claim is being brought before the Court having exclusive jurisdiction over claims involving these receivership entities. If the claim were to be filed separately, which would be the only logical conclusion to Plaintiff's argument, there is no guarantee that the claim would be before this Court. Indeed, this case is the only logical place to assert such a claim against Premier Global and Steven Parish as receivership entities.

Further, the filing of the cross-claims is *not* an attack on the Receivership *or* Plaintiff. Instead, the cross-claims are a direct result of the Plaintiff's Amended Petition and the need for Mr. Dean to defend himself against Plaintiff's allegations which now seem to acknowledge that Mr. Dean is not the culprit—Steve Parish is.

Second, nothing in the Receivership Order prohibits any entity or person from filing a claim against any party whose assets are impacted by the Receivership Order. The language of the provision above must be read to allow the filing of new claims, including cross-claims, where such claims must be timely filed to preserve those (or cross-plaintiff's) claims. *See Interurban Const. Co. v. Cent. State Bank*, 1919 OK 186, ¶ 10, 184 P. 905, 908 (“As a general rule, the mere appointment of a receiver does not in any way affect the running of the statute of limitations.”); *see also Horton v. Hamilton*, 2015 OK 6, ¶ 27, 345 P.3d 357, 366 (the automatic stay statute under the bankruptcy code does not prevent someone from bringing suit in a state district court).

The effect of the stay contemplated by the provision—if a stay is actually warranted, which it is *not* in light of the lack of showing of any interference with the Receiver's management of receivership estate assets—would be that the now-pending cross-claims themselves are stayed from adjudication but not stayed from being brought to preserve the claim. Although leave of Court

may be sought to lift the stay put in place by the Receivership Order, nowhere in the Receivership Order nor in any case law cited by Plaintiff or of which DDIA or Mr. Dean are aware requires leave to be sought to *file* a claim itself. Therefore, contrary to any claim in Plaintiff's Motion to Strike, the Receivership Order has not been violated by the simple filing of the cross-claims.

II. PRIVATE CLAIMS ARE NOT PROHIBITED BY ANY LAW FROM BEING INCLUDED IN REGULATORY ENFORCEMENT ACTIONS.

As much as the policy to prevent private claims may be desired by Plaintiff, Plaintiff's own relied-upon authority states that "there is no specific statutory provision or relief which so provides." *SEC v. General Host Corp.*, 60 F.R.D. 640, 641 (S.D.N.Y. 1973). In fact, Oklahoma law expressly permits the filing of a cross-claim "by one party against any party who is not an opposing party arising out of the transaction or occurrence that is the subject matter either of the original action or of a claim therein or relating to any property that is the subject matter of the original action." 12 O.S. § 2013(G). And as did here, "a cross-claim may assert a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant." *Id.*

Plaintiff admits that there are facts common to the Amended Petition and the cross-claims. Although the theories of liability and necessary proof are not identical, they certainly overlap where several facts alleged and proven in Plaintiff's case will automatically establish liability and proof for the cross-claims. But even if the Court wishes to stay the cross-claims pursuant to the Receivership Order for public policy purposes or otherwise, Oklahoma law grants the Court the power to "order separate trials of a counterclaim or a cross-claim," which may resolve all of Plaintiff's concerns. 12 O.S. § 2013(I).

Another source relied upon by Plaintiff is wholly dispositive of this situation. In *SEC v. Trans Jersey Bancorp.*, 1976 WL 855 (D.N.J. 1976), the main issue against permitting the cross-

claims to remain part of the action was that the cross-claimant made claims against the SEC itself. Here, DDIA and Mr. Dean have only alleged cross-claims against Parish. Plaintiff will not have to expend any resources defending the cross-claims as no cross-claim was brought against Plaintiff.

Allowing the cross-claims to remain part of the action, whether adjudicated now or stayed for later, does not prejudice the public (as stated above) or deplete resources contrary to Plaintiff's assertion. The Receivership Order and subsequent orders of the Court governing relevant assets as well as numerous disputes over the payment of attorneys' fees to Mr. Dean and DDIA's attorneys and from where such payment is made protects any resources of Plaintiff or the Receivership. Any pursuit by Mr. Dean and/or DDIA of the cross-claims against Parish is a cost to Mr. Dean and/or DDIA, not the Plaintiff or Receiver.

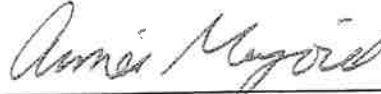
III. THE CROSS-CLAIMS ARE PROPERLY BROUGHT IN THIS ACTION AND DO NOT HAVE TO WAIT FOR THE RECEIVERSHIP CLAIMS PROCESS.

Plaintiff halfheartedly states that Mr. Dean and DDIA may submit a claim at some point in the future to the Receiver related to their cross-claims. But Mr. Dean and DDIA's claim is not as a creditor against the assets of the Receivership, *per se*. Mr. Dean and DDIA have claims of liability against Parish that carry much more weight than merely submitting a creditor claim for alleged money owed. Mr. Dean and DDIA's claims require adjudication, and the Receiver is not a judge; the Receiver cannot adjudicate Mr. Dean and DDIA's claims. It would be improper to make DDIA and Mr. Dean wait to submit their claim to the Receivership, and doing so would in fact do exactly what Plaintiff relies upon for its objection—waste resources of the Receivership. It is proper to permit the cross-claims to proceed under this action.

CONCLUSION

Plaintiff's opposition to the cross-claims proceeding in this litigation is misplaced. Mr. Dean and DDIA's cross-claims against Parish were properly brought pursuant to Oklahoma law, and no law prohibits the bringing of cross-claims in an action brought by a governmental entity. Therefore, Mr. Dean and DDIA respectfully request the Court deny Plaintiff's Motion to Strike.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This certifies that on this 21st day of May, 2024, a true and correct copy of the above and foregoing was delivered to:

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