



PF Entities. As alleged in the Petition, Defendants Steve Jonathan Parish and Dean designed and orchestrated a massive Ponzi scheme, through multiple entities under their control, that defrauded hundreds of investors in numerous states out of hundreds of millions of dollars in life savings.

3. On October 14, 2022, based on the facts alleged in the *Petition* and the *Application for Order Freezing Assets and Other Relief*, the Court issued the *Order Freezing Assets, Order Prohibiting Disposition of Assets and Order Prohibiting Destruction or Disposition of Records* freezing the assets of Dean and DDI Advisory stating:

It appears to this Court from the facts alleged in Plaintiff's Petition and Application that Plaintiff is entitled to the relief requested in the Application. It further appears that the public will suffer irreparable damage and injury unless such relief is granted.

It also appears to the Court that if the issuance of this Order is further delayed there is a strong likelihood that investor funds may be lost to the detriment of those investors.

4. On October 31, 2022, the Court issued an *Order Appointing Receiver*, appointing a Receiver over Defendants DDI Advisory, Dean's PF Entities, and Dean stating:

It appears to this Court from the facts alleged in Plaintiff's *Receivership Application* that Plaintiff is entitled to the relief requested. It further appears that there is a justifiable basis to believe that the following Defendants: Premier Global Corporation (formerly known as Premier Construction Services, Inc. and doing business as Premier Construction Billing); Premier Factoring, LLC; PF-2, LLC; PF-3, LLC; PF-4, LLC; PF-5, LLC; PF-6, LLC; PF-7, LLC; DDI Advisory Group, LLC; Steve Jonathan Parish; and Richard Dale Dean (the "Receivership Defendants") have violated the securities registration, securities professionals registration, and anti-fraud provisions of the Act, that a clear threat of immediate and irreparable injury and harm to Plaintiff and investors exists, and a danger exists that the Receivership Defendants will dissipate their assets to the detriment of Plaintiff and investors.

The Court finds, based on the record in these proceedings, that the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets owned, controlled, managed, or possessed by the Receivership Defendants.

5. Prior to the Order Freezing Assets of Dean and DDI Advisory and the Order Appointing Receiver over Dean and DDI Advisory, this Court, on July 11, 2022, enjoined Premier and Dean's PF Entities from the offer and sale of securities following protracted litigation with Plaintiff. In that litigation, Premier and Dean's PF Entities refused to produce certain subpoenaed invoices necessary to verify the accuracy of revenue representations made by Premier and Dean's PF Entities that induced hundreds of investors to part with millions of dollars. After this Court issued orders for the production of the invoices, the invoices submitted by Premier and Dean's PF Entities were shown to have been fabricated.

#### **DEAN SOUGHT ASSET FREEZE MODIFICATION**

6. On December 15, 2022, Dean filed an *Emergency Motion of Defendant Richard Dale Dean for Partial Lifting of Asset Freeze to Permit Payment of Living Expenses* ("Motion for Living Expenses") and *Emergency Motion of Defendant Richard Dale Dean for Partial Lifting of Asset Freeze to Permit Payment of Legal Fees* ("Motion for Legal Fees"), seeking an emergency release of frozen funds to pay his living expenses and legal fees.

7. Plaintiff filed objections to the Motion for Living Expenses and the Motion for Legal Fees (collectively, the "Dean Motions") and the Receiver filed a response to the Dean Motions.

8. Plaintiff's objections to the Dean Motions were asserted in:

*a. Plaintiff's Objection to Emergency Motions of Defendant Richard Dale Dean for Partial Lifting of Asset Freeze to Permit Payment of Living Expenses* ("Motion for Living Expenses") and *Legal Fees* ("Motion for Legal Fees"), and

*b. Plaintiff's Supplemental Objection to Emergency Motions of Defendant Richard Dale Dean for Partial Lifting of Asset Freeze to Permit Payment of Living Expenses and Legal Fees.*

9. The bases for Plaintiff's objections referenced above were that:
  - a. Case law clearly states that a defendant has no right to frozen assets where a plaintiff has demonstrated that the potential disgorgement it could receive far exceeds the amount that is frozen;
  - b. modifying the Asset Freeze would be contrary to the purpose of the Oklahoma Securities Act and against public policy; and
  - c. principles of equity clearly weigh in favor of not modifying the Freeze Order.

10. A hearing was held on January 11, 2023, at which time the Court considered the modification request and heard arguments from counsel. The following statements clarified the position of the Court regarding Dean billing against a separate legal fund for both cooperation and defense fees:

"Mr. Johnson: So I would suggest, since this will be reviewed in 60 days, that 245 be put into a separate legal fund but that be for both cooperation and legal defense, and we'll see where we are at in 60 days."

The Court: Well, I think within 60 days, that's fine.

Mr. Johnson: Right.

The Court: That's sufficient. If the Court--I will continue, I assure you, to oversee every dime in this case. So for now I think that is a fair proposal and will be accepted by the Court."<sup>1</sup>

#### **ASSET FREEZE MODIFIED WITH COURT IMPOSED CONDITIONS AND OVERSIGHT**

11. On March 14, 2023, the Court entered its *Order on Defendant Richard Dale Dean and DDI Advisory Group, LLC's Emergency Motions for Partial Lifting of Asset Freeze to Permit Payment of Living Expenses and for Partial Lifting of Asset Freeze to Permit Payment of Legal Fees* (the "Unfreeze Order"), memorializing the conclusions of the January 11, 2023, hearing.

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<sup>1</sup> Transcript of Motions Hearing had on January 11, 2023, page 38, lines 9-23

12. The Unfreeze Order modified the Freeze Order regarding the payment of the Dean living expenses and legal fees by establishing a limited monetary fund with procedures to be utilized and conditions of compliance by Dean in order to allow for any payments from the fund including the following:

IT IS FURTHER ORDERED that the following compensation procedures shall be utilized for the payment of the Dean Defendants' legal fees and expenses:

1. From the funds originally transferred from Kanza Account ending #3907, the Receiver will further segregate \$245,000.00 into a separate account maintained by the receivership estate ("Segregated Legal Fund") for fees and expenses incurred after October 13, 2022. The Receiver will not be required, absent Order of the Court, to replenish the Segregated Legal Fund with other receivership estate funds or recoveries ...."

2. For services performed from and after October 13, 2022, CAD [Crowe & Dunlevy] (now Steptoe & Johnson) shall separate and maintain separate billing statements for services performed for the Dean Defendants' defense (the "Personal Fees"), and for the services performed in assistance to the Receiver and the Receivership Estates (the Receivership Fees").

13. Pursuant to the Unfreeze Order, the court authorized a total of \$245,000.00 to be set aside in a separate account for Dean's Segregated Legal Fund, for fees and expenses incurred after October 13, 2022. No allowance was made for fees to be assessed against any other funds in the hands of the Receiver.

14. At this time, the Dean Defendants have already requested payment of Personal Fees and Receivership Fees well in excess of \$245,000, the full amount authorized by the Court. No order has been issued to replenish the Segregated Legal Fund.

**MOTION FOR REIMBURSEMENT SEEKS TO ALTER UNFREEZE ORDER  
AS THE SEGREGATED LEGAL FUND IS EXHAUSTED**

15. Dean argues in his Motion for Reimbursement that the Unfreeze Order provides that there are to be multiple pools of funds from which to satisfy his Personal Fees and Receivership Fees. The text of the Unfreeze Order contains no such language. The statements

of the Court and the Receiver belie this interpretation. Dean can approach the Court to seek further modifications to the Freeze Order but introducing a theory that there are multiple sources of funds for his fee payments is not consistent with existing Court orders.

16. Dean argues that his work for the Receivership has been a benefit to the Receivership Estate. However, the Unfreeze Order has no provision that the quality of benefit to the Receivership Estate is relevant to the source of any fees.

17. Dean argues that Plaintiff's objections to Receivership monthly statements indicate that Plaintiff had a "mutual understanding" that fees for "work" performed for the benefit of the Receivership Estate would be paid out of a source of funds separate from the Segregated Legal Fund. Plaintiff has consistently objected, in this case, to any fees asserted by Dean. It is absurd for Dean to assert that Plaintiff now "understands" that Dean's fees would be allowed to be paid from multiple sources of Receivership funds.

## **AUTHORITIES**

### **The Asset Freeze is Critical to Preserving Assets for Victims**

Plaintiff has objected and continues to object to any modification of the Asset Freeze to release additional funds to Dean for any purpose. An asset freeze is put in place to protect investors and a regulatory agency's ability to seek disgorgement. *See SEC v. Unifund SAL*, 910 F.2d 1028, 1041 (2d Cir. 1990). An asset freeze preserves a defendant's assets so that the assets are available to victimized investors of securities fraud. *SEC v. Dobbins*, 2004 WL 957715, \*2 (N.D. Tex. April 14, 2004). The Freeze Order was determined to be essential by this Court in this case, wherein hundreds of investors bear potential losses of millions of dollars. Dean has great potential exposure to liability to investors.

The United States Supreme Court eliminated any doubt as to the constitutionality of freezing assets and entirely precluding their use for payment of a defendant's attorney fees. *See, United States v. Monsanto*, 491 U.S. 600, 109 S.Ct. 2657, 105 L.Ed.2d 512 (1989), and *Caplan & Drysdale, Chartered v. United States*, 491 U.S. 617, 109 S.Ct. 2646, 105 L.Ed.2d 528 (1989).

Courts often look to the likelihood of success on the merits of the claims brought and balance the equities, which includes the availability of assets for consumer redress; the reasonableness of the fee request; whether defense counsel was aware of the possibility that fees might be denied or limited; and the defendant's access to alternative assets. *FTC v. Elite IT Partners, Inc.*, *supra* at \*2. *See SEC v. Lee*, *supra* at \*6, (requests for the release of frozen assets to pay attorney's fees have been denied when the frozen assets fall short of a potential disgorgement order, regardless of whether the funds are tainted). *Id.* at \*6.

What has been made clear is that when the potential liability of a defendant in a regulatory anti-fraud case exceeds the amount of the frozen assets it is both reasonable and consistent with statute to leave an asset freeze undisturbed. Such is the case with Defendant Dean. *See, SEC v. Current Financial Services*, 62 F.Supp. 2d 66, 68 (D.D.C. 1999) ("to ensure compensation to the victims in this case, the Court finds it reasonable to maintain the freeze order because plaintiff has demonstrated that the potential disgorgement it could receive in this case far exceeds the amount that is frozen in the account."). *See also, SEC v. Poor*, 1999 WL 553823, \*3 ("while money borrowed against the equity in Templin's home may not be the proceeds of fraud, there exists a likelihood that Templin will soon have significant personal liabilities to the government and to the victims of the fraud he is alleged to have perpetrated. The motion to release these funds to counsel is denied."). *See also, Commodity Futures*

*Trading Comm'n v. Co Petro Mktg. Group, Inc.*, 700 F.2d 1279 (9th Cir.1983) (court ordered law firm to return attorney fees paid from frozen assets because of the client's violation of commodities future trading regulations). *See also, SEC v. Lee*, 2019 WL 4934181 (N.D. Cal. 2012) at \*6 (requests for the release of frozen assets to pay attorney's fees have been denied when the frozen assets fall short of a potential disgorgement order, regardless of whether the funds are tainted).

Hundreds of millions of dollars from individual investors have been deposited into the accounts of all Defendants in this case. Defendant Dean's *Motion for Living Expenses* and *Motion for Legal Fees* involve funds in two accounts totaling less than Eight Hundred Thousand Dollars. Clearly, his potential liability exceeds the amount that is in the frozen accounts.<sup>2</sup>

Not only should assets remain frozen when liabilities exceed the amount(s) of assets, the source of funds and whether they are traceable to the fraud is irrelevant. *SEC v. Grossman*, 887 F.Supp. 649, 661 (S.D.N.Y. 1995)(denying a request for modification of an asset freeze to allow payment of attorneys' fees, and funeral and burial expenses on the ground that it was not in the interest of defrauded investors); *SEC v. Belmonte*, 1991 WL 214252 (S.D. Fla. 1991)(refusing to release funds from sale of home even though home had been acquired prior to alleged fraud); *SEC v. Current Financial Services, Id.*; and *SEC v. Poor, Id.*

Finally, counsel for Dean knew when they began their representation that there was a risk of not getting paid due to the existing asset freeze and the allegations of huge investor losses. In *SEC v. Lee, supra*, the court denied the payment of attorney fees from frozen funds

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<sup>2</sup> In prior proceedings before the Court Defendant Premier admitted that the sales of Promissory Notes alone totaled approximately \$70,000,000. See Page 3 of Defendants' Response to Plaintiff's Application for Order Enforcing Administrative Subpoenas, CJ-2021-4397.



where counsel should have been aware, when the representation was undertaken, that the court could deny or limit fees particularly after the asset freeze was requested. *Id.* at \*8.

### CONCLUSION

Payment of the fees sought by the Motion for Reimbursement should be denied in full. The Dean Defendants have already made requests for the full amount of the legal fees authorized by the Court in the Unfreeze Order. Further, the Freeze Order, with its limited modifications, is justified in light of the Court's findings regarding Dean and DDI Advisory and the potential liability of Dean and DDI Advisory for violations of the Act.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 3<sup>rd</sup> day of October, 2023, a true and correct copy of the above and foregoing instrument was delivered via First Class U.S. mail, with postage fully prepaid thereon, to:

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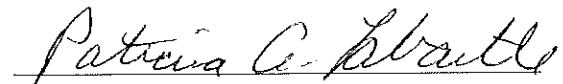
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