

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE §
COMMISSION, §
§
PLAINTIFF, §
§
vs. §
§
BRIAN A. BJORK, THE ESTATE OF JOEL §
DAVID SALINAS, J. DAVID GROUP OF §
COMPANIES, INC., J. DAVID FINANCIAL §
GROUP, LP, SELECT ASSET §
MANAGEMENT, LLC, SELECT ASSET §
CAPITAL MANAGEMENT, LLC, SELECT §
ASSET FUND I, LLC, AND SELECT ASSET §
PRIME INDEX FUND, LLC, §
§
DEFENDANTS. §

CIVIL ACTION NO. 4:11 CV - 02830

RECEIVER’S UNOPPOSED MOTION FOR STATUS CONFERENCE AND INSTRUCTIONS

TO THE HONORABLE KEITH P. ELLISON, UNITED STATES DISTRICT COURT:

COMES NOW, Steven A. Harr (“Receiver”), the Receiver appointed by the Court in these proceedings, and files this Unopposed Motion for Status Conference and Instructions, and in support of such would respectfully show the Court the following:

I.
FACTUAL BACKGROUND

1. On August 1, 2011, the Securities and Exchange Commission (“SEC”) filed its Complaint against Defendants. In conjunction therewith, the SEC sought, and by Order Appointing Receiver (the “Order”), the Court appointed, Steven A. Harr as the Receiver (the “Receiver”) for Brian A. Bjork, The Estate of Joel David Salinas, J. David Group of Companies, Inc., J. David Financial Group, LP, Select Asset Management, LLC, Select Capital Management,

LLC, Select Asset Fund I, LLC, and Select Asset Prime Index Fund, LLC (collectively, the "Receivership Entities").

2. The Receiver has been acting and fulfilling his duties as Receiver since his appointment and has conducted various investigations of the Receivership Entities with the intent to marshal the Receivership assets for the benefit of the Receivership Entities' investors and creditors. These efforts have also included review of corporate records, forensic accounting analysis, records from various legal counsel from the Receivership Entities, and forensic tracing. Substantial assets have been liquidated and a majority of the claims in the proceeding have been approved by the Court.

II. BASIS FOR THE REQUEST

3. The current status of this matter is reflected in the Receiver's most recently filed Seventh Interim Report filed April 16, 2013 (Dkt#135). In short, the Receiver has been engaged in this matter for 22 months, has liquidated a substantial portion of the assets and processed a majority of the victim claims.

4. The Receiver's strategy has been to liquidate all assets, form a pool of cash and after all claims have been approved by the Court, seek approval of a plan of distribution so that this matter can be closed. However, three pieces of real estate remain to be sold. Five sub participation interests / investments remain to be sold or paid. Possible litigation with third parties for the return of assets is still under consideration. These tasks delay the conclusion of this matter. Both the Receiver and the investors are anxious to see some return paid to the victims of the Respondent's fraud.

5. The Receiver currently has cash on hand of approximately \$24,600,000 maintained separately in three accounts, one each for Select Asset Fund I, Select Asset Prime Index Fund and collectively Joel Salinas/J David Group/ J David Financial and Parkway Pawn.

6. As of June 11, 2013, 201 claims have been approved by the court in the amount of \$34,016,658.94. There are currently 76 claims remaining to be reviewed and approved in the current face amount of \$22,926,662.50. These are the more “difficult” claims where disputes are more likely or substantially more information is needed from the claimants.

7. The Receiver has been considering whether an interim distribution of funds is in the best interest of the estate. Several of the victims of the fraud in this matter have been asking for an interim distribution. There are a number of issues to be considered to that end. Among those are:

a. No formal plan for distribution has been proposed or approved by the Court, although one could be depending on the outcome of the Status Conference requested.

b. An interim distribution increases the cost of making the distribution of the estate’s assets. These costs include the accounting analysis, preparation of correspondence and checks to victims and the attendant administrative issues that come with returned mail and victim confusion.

c. Some of the claims yet to be resolved are likely not owed any money such that any payment based on a proportional pro-rata payment would be an over payment. One choice is to make a distribution to those whose claims have been approved and to make the same percentage interim distribution to the remaining claims as they are approved. However, beginning a distribution at this time means the Receiver is making a partial distribution to only part of the victims.

d. No decision has yet been made on whether the operations of Select Asset Fund I and Select Asset Prime Index Fund should be collapsed into the remainder of the receivership comprised of the J David Salinas, J David Group, J David Financial and Parkway Pawn assets, complicating the question of who to pay from what source. It has been the Receiver’s plan to hold this decision until all claims have been reviewed and approved to determine how the distributions would be different under different scenarios and to present that issue to the Court for determination.

8. The Receiver expects that it will take at least until the end of the year to complete the claims process.

9. The Receiver requests a Status Conference be set with the Court to review these issues so that the Receiver may obtain direction from the Court on how to proceed in the best interest of the estate. In the event this Motion is granted and a Status Conference is ordered, for purposes of scheduling in light of the Receiver's schedule, it is requested that the status conference be scheduled any time June 26 [other than between 10-11 a.m.], 27 or July 1, 2, 3, or July 8 - 10¹.

10. Pursuant to Local Rule CV-7, the Receiver advises the Court that the Plaintiff Securities and Exchange Commission does not oppose the relief requested in this Motion. The Defendant entities are all controlled by the Receiver.

III. **CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that upon final consideration of this Motion that the Court enter an Order consistent with the foregoing requested relief and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

¹ The Receiver is currently set for a trial in Austin, Texas that is expected to consume two weeks beginning July 15 – 26, 2013. As well, the Receiver's son is getting married July 13, 2013.

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

/s/ Steven A. Harr

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THE RECEIVER AND COUNSEL FOR THE
RECEIVERSHIP ENTITIES

CERTIFICATE OF CONFERENCE

On June 25, 2013, I conferred with Tim McCole and he stated that the Securities and Exchange Commission is not opposed to the relief sought in this motion.

/s/ Steven A. Harr

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically with the Clerk via the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Houston, Texas, this 25th Day of June 2013.

/s/ Steven A. Harr

Steven A. Harr

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ORDER

This matter is before the Court on the Receiver’s Unopposed Motion for Status Conference and Instructions (the “Motion”). Because the Court is of the opinion that the Receiver’s Motion is well-taken, it is hereby GRANTED.

IT IS HEREBY ORDERED that a status conference is set on _____
at _____ in the Court room of this court.

SIGNED this _____ day of _____, 2013.

HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE