

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 TO SELL ALL RIGHT, TITLE AND INTEREST
IN A FORTY SIX PERCENT EQUITY INTEREST IN SELECTED MARKET
INSURANCE GROUP LLC HELD BY SFT INVESTMENTS, LLC.**

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

Steven A. Harr (“Receiver”), the Receiver appointed by the Court in these proceedings, files this Unopposed Motion to Sell All Right, Title and Interest in a Forty Six Percent Equity Interest in Selected Market Insurance Group LLC held by SFT Investments, LLC. (the “Equity”) respectfully stating:

**I.
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 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. As the Court ordered, the Receiver was authorized to have complete and exclusive control, possession and custody of all Receivership assets and Receivership records of Defendants. Receivership Assets and Receivership Records were defined in the Order as “assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the [Receivership Entities] and all entities they own or control . . . , and the books and records, client lists, account statements, financial and accounting documents, computers, computer hard drives, computer disks, internet exchange servers telephones, personal digital devices and other informational resources of or in possession of the [Receivership Entities] or issued by [Receivership Entities] and in possession of any agent or employee of the [Receivership Entities].”¹

3. Since the inception of the receivership, the Receiver has been engaged in efforts to understand, acquire and sell the estate’s equity interest in Selected Market Insurance Group, LLC (“SMIG”). A third party lender’s claim against a subsidiary of SMIG has been a barrier to that sale. That lender’s claim has recently been resolved at no cost to the Receivership clearing the way for the estate to now sell the Equity for the benefit of investor victims.

II.

BACKGROUND FACTS OF THE EQUITY

4. SMIG is an Insurance Marketing Organization (IMO) that secures insurance products from various carriers and introduces these products to distribution channels through

¹ Order Appointing Receiver, ¶1.

which SMIG receives an over-ride of commission from the earned premiums. The types of products sold by SMIG include short term medical, dental, life, accident medical and other niche oriented products. The key business strategy of SMIG is to have as many products being sold in as many distribution channels as possible. The true equity in the business is based on the business relationships of the principals and management.

5. Online Insurance Services, Inc. ("OIS") is wholly owned by SMIG. OIS is a full service Third Party Administrator in 11 states that facilitates and/or provides technology to various insurance carriers, associations and others administrators through proprietary systems for such needs as rating systems, enrollment, billing and collection, payment of commissions to agents, insurance eligibility, claims payment, customer service and various reports on these matters. OIS facilitates the administration of all products secured by SMIG as well as provides its services to other businesses such as SMIG.

6. David Salinas, the primary actor in this proceeding, originally met Dan Kuhn and Alan Edgin in about 1993 when both men worked at Mutual of Omaha in Omaha, Nebraska. Mr. Salinas brokered intercollegiate sports insurance on which Mutual of Omaha was the underwriter and J David Financial Group was the producer. The working relationship continued for a number of years and led to both Mr. Kuhn and Mr. Edgin becoming investors with J. David Financial Group. A business and personal relationship existed between the three men until Mr. Salinas's death.

7. SMIG was created in 2007 and originally formed by Mr. Salinas and Mr. Kuhn. In 2008, SMIG learned of the possibility of purchasing OIS to compliment the business lines of SMIG. OIS was in bankruptcy at the time and SMIG purchased the company out of its bankruptcy.

8. In August 2008, Mr. Edgin became the President of SMIG.

9. From the beginning of the formation of SMIG and including its purchase of OIS, Mr. Salinas provided all the capital to support these companies and Mr. Kuhn and Mr. Edgin were the management and workforce for the development of the business lines of the combined companies.

10. From the formation of SMIG and through the purchase of OIS, capital in the form of loans was provided by receivership entities Select Asset Fund I LLC and Select Asset Prime Index Fund LLC. The following is a summary of the loans made to and currently outstanding from SMIG and OIS:

Lender	Borrower	Original Principal Amount
Select Asset Fund I	Selected Market Insurance Group LLC	\$1,965,000
Select Asset Fund I	Online Insurance Services, Inc.	\$300,000
Select Asset Prime Index Fund	Selected Market Insurance Group LLC	\$810,000

11. It is not believed that any payments were ever made by the borrowers on these loans.

12. The equity of SMIG is owned forty six percent (46%) by SFT Investments LLC ("SFT"), and the remainder is owned by Messers. Kuhn and Edgin. Despite SFT only owning forty six percent, it has the controlling voting rights of the equity and for the Board of Directors.

13. SFT was an entity owned and controlled by J David Salinas, Robbin Salinas, Christopher Salinas, Sarah Ann Salinas and Sommer Ann Salinas (“Salinas Family Members”). As a result of the Receiver’s complete settlement with the Salinas Family Members as approved by the Court on February 12, 2012 (Dkt# 51), the Receiver took ownership and control of their interest in SFT and thus the Equity.

14. Beginning in February 2012, the Receiver met with Mr. Kuhn and Mr. Edgin to discuss the company, its business, its future and its debt. It was clear before that meeting that the loans made by Mr. Salinas from the Receivership entities dwarfed SMIG’s and OIS’s ability to repay the loans. Mr. Kuhn and Mr. Edgin were forth coming with all information that the Receiver requested concerning the balance sheets and historical operations as well as their future opportunities and lines of business. The result of the initial meeting was the expression of a clear interest by Mr. Kuhn and Mr. Edgin to purchase the Equity so long as the indebtedness owed by SMIG and OIS to the Receivership Entities was discharged such that those loans were not an ongoing obligation of SMIG or OIS. As well, the loan owed by OIS to a third party lender had to be released in full. As a result of the meeting, it was clear to the Receiver that unless he could find a way to sell the Equity to Messers. Kuhn and Edgin, there would be no ability to recover any portion of the loans made to SMIG and OIS.

15. In March 2012, the Receiver employed a valuation expert to determine the value of SMIG/ OIS, assuming the indebtedness to Select Asset Fund I and Select Asset Prime Index Fund was discharged. A report was prepared in March 2012 and brought current in April 2013 and reflects a range of value of the Equity with the high end of the range being near \$300,000.00.

16. A material delay in the effort to reach an agreement then followed while the Receiver pressed to resolve the claim of the third party lender against OIS. With the third party lender’s claim against OIS being recently settled (Dkt#134) in April 2013, the Receiver began in

earnest to document and complete a series of transactions by which the Equity could be sold for the sale price of \$300,000. The means to accomplish the discharge of the loans and the sale of the Equity for the purchase price is complicated, but has been negotiated, prepared, approved and signed by the parties and the buyer has funded the initial down payment in trust pending the approval of this sale.

17. There are no known liens or claim on the Equity. There is no ready market for the Equity. The valuation of the Equity obtained by the Receiver indicates a market value of between \$80,000 - \$258,000. The purchase agreements signed and in trust call for payment of a purchase price of Three Hundred Thousand Dollars (\$300,000.00) to be paid \$100,000 at closing and \$200,000 over 24 months plus interest at the rate of 3.5% per annum. Because of the cost of obtaining valuations is high and because of the nature of this asset (privately held shares in a small service company), the Receiver has not obtained more than one valuation of the Equity. Accordingly, the Receiver also moves this court, pursuant to its equitable powers, to allow the Receiver to sell the Equity based on one valuation, free and clear of all liens, claims and expenses.

18. The Receiver will credit the payments from the sale of the Equity to the receivership entity loans discharged on a pro-rata basis based on the original principal amount of each loan.

19. Given the nature of the asset being sold, the Receiver moves the Court to allow the Receiver to sell the Equity for the price indicated and on the following terms:

- a. The Receiver is authorized to sell the Equity described in the purchase agreements or on substantially similar terms as set forth in the purchase agreements. The Receiver may execute the purchase agreements and any and all documents contemplated or required by the purchase agreements on behalf of SFT and the other Receivership Entities.

- b. The purchase agreements, all of the terms and conditions thereof, and all of the transactions contemplated therein are approved in all respects. The failure specifically to include any particular provision of the purchase agreements in this Motion shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the purchase agreements be authorized and approved in their entirety.
- c. The transfer of the Equity by the Receiver to the purchaser shall be a legal, valid and effective transfer of the Equity. Upon consummation of the sale of the Equity by the Receiver, all of the Receiver's or any other person or entity's right, title and interest in and to, and possession of, the Equity shall be immediately vested in the purchaser free and clear of any and all liens, claims, interests and encumbrances, and all such liens, claims, interests and encumbrances, if any, are hereby released, terminated and extinguished. Such transfer shall constitute a legal, valid, binding and effective transfer of such Equity.
- d. The Receiver is authorized to discharge the loans made to SMIG and OIS in exchange for payment of \$300,000 and the transfer of the Equity.
- e. The terms and conditions of the Court's Order shall be effective immediately upon entry and the Receiver and the purchaser are authorized to close the sale of the Equity immediately upon entry of this Order.

20. The Receiver states that this sale as proposed is in the best interest of the receivership estate.

21. Pursuant to Local Rule CV-7, the Receiver advises the Court that the Plaintiff Securities and Exchange Commission consents to the relief requested in this Motion. The Defendant entities are all controlled by the Receiver.

III.

CONCLUSION

WHEREFORE, the Receiver prays that the Court enter an Order in the form submitted with this Motion, or for substantially the same relief in such form as the Court may find just and proper.

Dated this 10th day of July, 2013.

Respectfully submitted,

By: /s/ Steven A. Harr

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CERTIFICATE OF CONFERENCE

On July 10th, 2013, I conferred with Tim McCole and he stated that the Securities and Exchange Commission is not opposed to 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 10th day of July, 2013

/s/ Steven A. Harr

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ORDER GRANTING RECEIVER’S UNOPPOSED MOTION TO SELL ALL RIGHT, TITLE AND INTEREST IN A FORTY SIX PERCENT EQUITY INTEREST IN SELECTED MARKET INSURANCE GROUP LLC HELD BY SFT INVESTMENTS, LLC.

This matter is before the Court on the Receiver’s Unopposed Motion to Sell All Right, Title and Interest in a Forty Six Percent Equity Interest in Selected Market Insurance Group LLC held by SFT Investments, LLC. The Plaintiff and Defendants agree to the relief requested. The Court is of the opinion that the Receiver’s Motion is well-taken and it is GRANTED.

IT IS HEREBY ORDERED that the Receiver's Unopposed Motion to Sell All Right, Title and Interest in a Forty Six Percent Equity Interest in Selected Market Insurance Group LLC held by SFT Investments, LLC. is GRANTED; it is further,

ORDERED that

- a. The Receiver is authorized to sell the Equity described in the purchase agreements or on substantially similar terms as set forth in the purchase agreements. The Receiver may execute the purchase agreements and any and all

documents contemplated or required by the purchase agreements on behalf of SFT and the other Receivership Entities.

- b. The purchase agreements, all of the terms and conditions thereof, and all of the transactions contemplated therein are approved in all respects. The failure specifically to include any particular provision of the purchase agreements in this Motion shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the purchase agreements be authorized and approved in their entirety.
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- e. The terms and conditions of the Court's Order shall be effective immediately upon entry and the Receiver and the purchaser are authorized to close the sale of the Equity immediately upon entry of this Order.

SIGNED this _____ day of _____, 2013.

HON. KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE