

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-CV-80468-MIDDLEBROOKS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JCS ENTERPRISES, INC. d/b/a JCS
ENTERPRISES SERVICES INC., T.B.T.I., INC.,
JOSEPH SIGNORE, and PAUL L. SCHUMACK, II,

Defendants.

**RECEIVER'S MOTION TO APPROVE CLAIM FORM,
MANNER OF NOTICE OF CLAIM FORM, AND CLAIMS
BAR DATE WITH SUPPORTING MEMORANDUM OF LAW**

James D. Sallah, Esq., not individually, but solely in his capacity as the Court-Appointed Receiver (the "Receiver") for JCS Enterprises Inc., d/b/a JCS Enterprises Services Inc. ("JCS"), T.B.T.I. Inc. ("TBTI"), My Gee Bo, Inc. ("Gee Bo"), JOLA Enterprise Inc. ("JOLA"), and PSCS Holdings, LLC ("PSCS") (collectively the "Receivership Estate" or "Receivership Entities"), through the undersigned counsel, moves for an Order to approve the Receiver's proposed proof of claim form, the Receiver's proposed manner of notice of proof of claim form, and the Receiver's proposed claims bar date. In support of this Motion, the Receiver provides the following information.

I. Introduction

On April 7, 2014, the United States Securities and Exchange Commission (the "SEC") commenced an action against JCS, TBTI, Joseph Signore, and Paul L. Schumack, II in the instant case. On that same day, this Court granted a Temporary Restraining Order against JCS, TBTI, Joseph Signore and Paul L. Schumack, II. (DE 16). Also, on April 7, 2014, this Court entered an Amended Receiver Order appointing James D. Sallah, Esq. as the Receiver. (DE 19). On April 14, 2014, this Court expanded the Receivership over Gee Bo. (DE 26). On December 11, 2014, this Court further expanded the Receivership over JOLA and PSCS. (DE 168).

In the December 12, 2014 Order Reappointing James D. Sallah, Esq., as Receiver, the Court directed the Receiver to, among other things:

Take immediate possession of all property, assets, and estates of every kind of JCS and T.B.T.I. wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court.

The Receiver's ultimate goal is to distribute liquidated receivership assets to approved investors and creditors. The first step in accomplishing this goal involves the instant Motion, in which the Receiver seeks this Court's approval of the Receiver's proposed proof of claim form, which is described in detail below and attached hereto as **Exhibit A**. In the event the Court approves this Motion and the proposed claim form, the Receiver will deliver and/or make available, as described below, such claim form to all persons and entities with a potential monetary interest in the Receivership Entities.¹ After providing such approved claim form to potential investors and creditors, the second step will be to seek – by separate motion in the near future – the Court's approval to: 1) determine the most-appropriate method for a future distribution of the Receivership Estate to approved investors and creditors; 2) establish a procedure by which to object to claims; and 3) establish the procedure for setting reserves for the Receiver to pay for ongoing costs of the administration of the Estate, litigation, and for disputed claims. The Receiver anticipates that summary proceedings will be necessary to address any objections to the proposed, first interim distribution and disposition of claims. The third step will be to review the submitted claims, determine which claims are proper and should receive a first interim distribution, determine which claims are objectionable and should not receive a first distribution, and subsequently seek – by separate motion at the appropriate time in the future – an Order authorizing a first interim distribution on disposition of claims. As part of the third step in this process, the Receiver will ask this Court to address the Receiver's objections to claims in a summary proceeding. In light of the number of potential Claimants, the Receiver anticipates that this will likely be a lengthy process.

II. Proof of Claim Form

The Receiver has prepared a proposed "Proof of Claim Form" ("Claim Form") (Exhibit A) for potential investors and creditors ("Claimants"). The Claim Form is extensive and seeks

¹ On March 31, 2017, the Receiver moved to pool, or combine, all of the Receivership Entities into one Estate for purposes of the future claims procedure. (DE 372).

specific information under penalty of perjury. It also requires documentation in support of certain requests. The Receiver seeks this Court's approval to use the attached, proposed Claim Form in these proceedings.

Upon receipt of the Claim Forms from potential investors and creditors, the Receiver and his professionals will analyze such Claim Forms and accompanying documentation. Considering that the Receiver has determined that there are more than 1,300 victim investors (not including other potential creditors), the Receiver anticipates that the Claim Form review process may be very time-consuming. The Receiver anticipates needing significant time to review all of the Claimants' information and documentation, compare it to his findings to date, determine if the claim is proper and should be paid as part of the future motion for first interim distribution, determine if the claim is objectionable (based on various potential reasons), and draft his proposed disposition of all claims.

III. Manner of Notice of Claim Form

The Receiver seeks approval to provide notice of the Claim Form in the following manner. The Receiver first requests approval to provide with an explanatory cover letter the Claim Form to all known or potential Claimants via U.S. Mail and email, to the extent that such information is available. The Receiver has identified numerous potential Claimants and possesses some last-known mailing addresses and email addresses. However, the Receiver believes that the records may lack some current physical mail and email addresses. The Receiver further recognizes the potential for Claimants who are unknown to the Receiver.

Accordingly, the Receiver also seeks approval to provide additional notice of the Claim Form by making it available on the Receiver's website located at www.jcs-tbtireceivership.com, which he has been using to apprise interested parties and the public of certain activities during the course of the Receivership. The Receiver also intends to provide additional notice of the Claim Form by requesting that it be posted on a Facebook page created by investors.

Finally, the Receiver requests approval to publish a notice of the Claim Form in a widely-circulated periodical. Based on the location of the Receivership Entities and the large concentration of investors and creditors in Palm Beach County, the Receiver has determined it to be most beneficial to publish notice of the Claim Form in *The Palm Beach Post*. The Receiver seeks the Court's approval to publish the Proof of Claim Form in *The Palm Beach Post* once a

week for four (4) consecutive weeks. The Receiver also requests that the Court authorize him to pay incurred expenses for notice from the Receivership Estate.

IV. Claims Bar Date

The Receiver seeks entry of an Order establishing a deadline for all Claimants to submit their Claim Form to the Receiver, typically called the “Claims Bar Date.”² The Receiver proposes the Claims Bar Date as ninety (90) calendar days from the first day that *The Palm Beach Post* publishes notice of the Claim Form. As stated above, and in order to maximize notice, the Receiver will promptly do the following after the first day of publication in *The Palm Beach Post*: 1) provide the Claim Form with an explanatory cover letter to all known or potential Claimants via U.S. Mail and email, if known; 2) provide notice of the Claim Form on the Receivership website; 3) request that notice of the Claim Form be posted on the investors’ page on Facebook; and 4) file with the Court a Notice of the Receiver’s efforts to disseminate the Claim Form (with the designated Claims Bar Date).

Moreover, it is necessary to establish a Claim Bar Date to allow as many Claimants as possible to participate in these proceedings. However, the Court should order that upon the expiration of the Claims Bar Date, no further claims to any distribution shall be considered by the Receiver. This will allow the Receiver to conduct a proper investigation into a set number of claims and assess the total amount of potential claims against the Receivership Estate. This will also facilitate a timely claims resolution and distribution process.

V. Memorandum of Law

The Court’s power to supervise an equity receivership and determine the appropriate action to be taken in the administration of the receivership is extremely broad. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) *rev’d in part on other grounds*, 998 F.2d 922 (11th Cir. 1993). The Court’s wide discretion derives from the inherent powers of an equity court to fashion relief. *Id.* at 1566 (citing *SEC v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982)). As part of this Court’s supervision, it should issue the attached proposed order approving the proposed Claim Form (Exhibit A), the proposed manner of notice of the Claim Form, and the proposed Claims Bar Date.

² The specific Claims Bar Date is not listed in the attached, proposed Claim Form, but will be when the Receiver is prepared to publish and distribute the Claim Form.

VI. Conclusion

WHEREFORE, James D. Sallah, Esq. as the Receiver, respectfully requests that this Court enter an Order substantially similar to the proposed order (attached hereto as **Exhibit B**) to approve the proposed Claim Form (attached hereto as Exhibit A), the proposed manner of notice of the Claim Form, and the proposed Claims Bar Date.

LOCAL RULE 7.1(a)(3) CERTIFICATE

Counsel or the Receiver has conferred with:

- 1) Anthony Natale, Esq., counsel for Paul L. Schumack, II, who without admitting or denying any of the allegations in the Motion, does not oppose the requested relief; and
- 2) Russell Koonin, Esq., counsel for the U.S. Securities and Exchange Commission, which does not oppose this motion; and
- 3) Assistant United States Attorney Ellen Cohen, counsel for the United States of America, which does not oppose this motion.

On March 31, 2017, the undersigned counsel emailed Non-Party Christine Schumack, who has yet to respond to provide her position on this motion. The undersigned counsel has been unable to confer with Defendant Joseph Signore and Non-Party Laura Grande, who are both incarcerated.

Dated: April 3, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 3, 2017, I electronically filed the above document using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record and *pro se* parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Jeffrey L. Cox

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