

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

Case No. 11-10949
Hon. Lawrence P. Zatkoff

ALAN JAMES WATSON, MICHAEL POTTS
and CASH FLOW FINANCIAL LLC,

Defendants,

ORDER

Currently before the Court are the Receiver's Motion for Approval of Investor Claim Procedure [dkt 66] and Motion for Order to Set Hearing [65]. Receiver's motions seek approval of its proposed procedure for processing claims by investors seeking to recover funds misappropriated by Defendants ("Claims Procedure Motion") and an order setting a hearing on its motion to approve the investor claim procedure ("Hearing Motion"). The deadline to respond to these motions has expired and the other parties to this litigation have not opposed the motions.

Due to the unique nature of the Claims Procedure motion, the Receiver believes that the investors of Defendant Cash Flow Financial ("CFF"), who are the subject of the fraud involved in this case, should be allowed an opportunity to be heard. According to the Receiver, there are approximately 900 investors involved. Thus, to provide appropriate notice to all potential parties, the Receiver has filed the instant motions.

In the Hearing Motion, Receiver requests the following:

1. That the Court set a date for a hearing to approve the Proposed Investor Claims Procedure;

2. That the Court approve Receiver's proposal that it provide notice to all known and unknown investors of CFF via an ad in *USA Today*;
3. That if and when the Hearing Motion has been approved and a date has been set for the hearing, the Receiver will send proper notice to all known investors of CFF and a publication will be made to provide notice to any unknown investors of CFF. This notice will inform the investors of the Proposed Investor Claims Procedure and of the date of the hearing to approve such procedure.

The Receiver believes this process will provide ample notice and opportunity to be heard to all involved, allowing the Court to more aptly rule on the Claims Procedure Motion.

Based on the Court's review of Receiver's filings, IT IS HEREBY ORDERED that Receiver's Motions are DENIED.

IT IS FURTHER ORDERED that Receiver may resubmit the Motions taking into account the following:

1. Any claims procedure shall provide a date certain by which objections and suggestions may be filed;
2. Following the expiration of the date by which objections and suggestions are to be filed, and upon motion by Receiver, the Court shall determine whether and when a hearing shall take place;
3. Receiver shall provide additional briefing as to its reasons for proposing to notify to all known investors of CFF through a publication in *USA TODAY*, as opposed to the *Wall Street Journal*. Such briefing must be limited to 5 pages and must otherwise comply with E.D. Mich. L.R. 5.1.

IT IS SO ORDERED.

DATE: January 30, 2013

s/Lawrence P. Zatkoff
HON. LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE