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Filed

FEB 22 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 SECURITIES AND EXCHANGE)
COMMISSION,)

12 Plaintiff,)

13 vs.)

14 SMALL BUSINESS CAPITAL CORP.; MARK)
FEATHERS; INVESTORS PRIME FUND, LLC;)
15 and SBC PORTFOLIO FUND, LLC,)

16 Defendants.)
17)
18)
19)

Case No. CV12-03237-EJD

FRCP 12 MOTION TO DISMISS THE LAWSUIT

MOTION TO INSTRUCT RECEIVER TO DISCONTINUE FORENSIC WORK AND MOTION TO DISMISS THE RECEIVER AND INVALIDATE ALL PRIOR REPORTS TO THE COURT

FRCP 11 MOTION FOR SANCTIONS AGAINST THE PLAINTIFF'S OFFICERS JOHN BULGOZDY AND SUSAN HANNAN

Hearing on May 10th, 2013, 9:00 a.m.

Judge: Hon. Edward J. Davila

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28**I Introduction**

Pending before the court is a request of the Thomas Seaman Company for payment of receivership fees. It has been discovered today that the SEC has provided false information to the court. The Commission stated in Docket No. 6 that Mr. Seaman is a licensed certified public accounts (“CPA”). In its request to appoint Mr. Seaman as a receiver, and in elaborating on his qualifications, the Commission stated, which is a falsehood, that Mr. Seaman is a CPA.

Plaintiff is the United States Securities and Exchange Commission. As such, it is recognized as an authority in accounting and audit matters, and there can be no denial in this matter, that it is actually is such an authority. This matter is not excusable of representing to the court an individual as a CPA who is not a CPA. Other than this serious lie about professional licensing credentials by the Commission of their requested receiver appointment, how can one do a “forensic accounting”, if one is not an accountant?

In his answers to Feathers’ contesting his court submissions, and in which Feathers’ questions the receiver’s work product, relative to his CPA licensing, the Receiver has failed to advise the court that he is not a Certified Public Accountant. Apparently the receiver also failed to examine Court Docket 6, submitted by SEC to place this receiver, or has examined it and failed to inform the court that he does not carry professional licensing which the Commission has falsely introduced to a federal Court.

II Conclusion

Plaintiff, which is the United States Securities and Exchange Commission, and a recognized authority in matters of audit and accounting, has stated by its own admissions that it used the formula Feathers referenced in his motion to dismiss for cause, and for relief, and in which, in his motion, he demonstrated that the use of this formula by Plaintiff could, would, and did, in fact lead to entirely invalid results from which to base any valid conclusions upon, and, in fact, could, would, and did produce highly misleading illustrations to the court, or to any reader for that matter.

1 Plaintiff, by using this formula, which they have acknowledged, in so doing, and which they knew,
 2 or should have known, was very defective, has caused to be illustrated in the complaint vastly
 3 overstated IPF and SPF distributions, which are improper and unreliable, and which plaintiff knew,
 4 or should have known, and which plaintiff never should have employed, which they know, or
 5 should have known. The formula used by Plaintiff was the work of Roger Boudreau, a licensed
 6 public accountant. The Plaintiff employed these, whether in "good faith", knowingly, recklessly,
 7 fraudulent, any or all of which would have the same impact, in showing substantially inaccurate
 8 and misleading illustrations of IPF's and SPF's true historical distributions. The matter of the IPF
 9 and SPF historical distributions are an essential element of their complaint.

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Case No. **CV 12 - 03237 EJD**
RECOMMENDATION BY PLAINTIFF
SECURITIES AND EXCHANGE
COMMISSION THAT THOMAS A. SEAMAN
BE APPOINTED RECEIVER

Seaman is a licensed CPA and has extensive experience operating and resolving distressed

One cannot call oneself a doctor without proper professional licensing. One cannot call oneself a broker-dealer without a broker-dealer license, and one cannot call oneself an attorney without a degree.


In the same manner, one cannot call oneself a CPA if one is not a CPA, nor allow a party such as the SEC to represent themselves this way if they are not a CPA. One cannot conduct forensic accounting if one is not an accountant.

Defendant has demonstrated cause for relief, and full dismissal, with prejudice. Defendant has demonstrated cause for special sanctions against the Commission.

1 Plaintiff's officers John Bulgozdy, Esq., and Susan Hannan, Esq., as officers of the court
2 and as officers of the Commission, have clearly failed their due
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4 Date 2-22-13

Respectfully Submitted,



Mark Feathers, *Pro Se* Defendant

7 This matter came to be heard upon the *Ex Parte* request of *Pro se* defendant Mark Feathers.
8 The court, having heard the defendant's argument and other evidence finds that:
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A. This Court has jurisdiction over the parties to, and the subject matter of this action.

B. Good cause exists to dismiss this lawsuit, and to invalidate any prior submissions of the receiver's reports.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this action for the purpose of implementing and carrying out the terms of all orders and decrees which may be entered herein and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

IT IS SO ORDERED.

DATED: February __, 2013

TIME:

EDWARD J. DAVILA

UNITED STATES DISTRICT JUDGE

Presented by:

Mark Feathers, as *Pro Se* Defendant