

1 Mark Feathers, *Pro Se*, Defendant
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FILED

SEP 27 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)
15 FEATHERS; INVESTORS PRIME FUND, LLC;)
and SBC PORTFOLIO FUND, LLC,)

16)
17 Defendants.)
18)
19)
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Case No. 12-cv-03237 EJD

**DEFENDANT'S OMNIBUS
OPPOSITION REPLY ON RECEIVER'S
AND RECEIVER'S COUNSEL
REQUEST FOR PAYMENT (DOCKETS
NO. 608 & 609)**

I Introduction and Cause to Deny Receiver's Counsel's Request for Payment

1 The Receiver and his counsel have submitted their request for approval of their third interim
2 payment. On the basis of the receiver's appointment through an act of fraud by omission on his
3 part, as to his licensing (see Court Docket 275), in two federal lawsuits in fact, he should not
4 receive any payment, nor should his counsel, who participated in this matter of fraud by deceit.
5

6 On the basis of the receiver's fraud by deceit and fraud by omissions to the court as to his
7 prior false, unsupported, and grossly misleading comments (see Court Docket 54), which played a
8 major part in the Court denying defendant Feathers' and the other parties of the receivership estate
9 the ability to be represented by qualified counsel, which included the receiver's false statements
10 and material omissions in his court submissions about Feathers' equity investments into his
11 company (see Court Docket 603), false accusations of obtaining gift certificates to fancy seafood
12 restaurants, false statements as to payments by investment funds on expensive cars, and
13 employment of his minor children by his own company (to which there was nothing illegal),
14 through the receiver's grossly misleading statements as to the availability to Feathers of money for
15 his defense which the receiver actually knew to be Feathers' spouse's own retirement monies to
16 which Feathers would have no rightful claim, etc., he should not receive any payment, nor should
17 his counsel, who participated in these matters of fraud by deceit and by their authorship of the
18 receiver's August 10th, 2012, letter to the Court, which the receiver's counsel also sent to SEC for
19 the review and approval prior to sending it to the Court, as a three party conspiracy.

20 The receiver, well before this lawsuit and continuing into this lawsuit, works almost entirely
21 by way of his employment referrals which come by way of SEC (Exhibit 1). His substantial
22 monetary relationship with SEC, which could only cause his position to never be one of an arms-
23 length relationship, such as receiver's are obliged to operate under, was well established before his
24 appointment to this lawsuit, and the depth of his monetary relationship with SEC was never
25 disclosed by SEC to this Court, and in fact it continues to be deepened with this lawsuit. The
26 conspiracy of SEC and the receiver to interfere with truth and fact, and their crony relationship to
27 assist each other with their frauds, is a long running one. Judging by the scores of letters written to

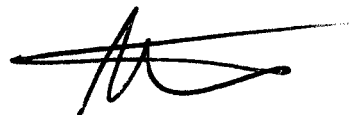
1 the Court by the members of the defendant investment funds, it appears that the voice of the public
 2 or of fund members strongly condemns this relationship of theirs', and the fact that the receiver
 3 was appointed through his, SEC's, and the receiver's counsel's fraudulent conspiracy of fraud by
 4 deceit as to his licensing on this matter, and their request of the court to make a major, and time
 5 sensitive decision to seize assets, all while holding back the Court information as to the actual
 6 nature of their relationship.

7 The seizure of the assets of the investment funds and SB Capital came about because of
 8 SEC's employment of false financial information of the defendants (see Court Dockets 126 & 187)
 9 throughout every financial illustration in its Complaint (Docket 1), and SEC's use of the word
 10 "Ponzi" so as to employ a word which causes a high level of hysteria, distraction, and alarm in
 11 those who hear it, and also may cause onto them to make decisions before a thorough review of the
 12 facts, and also immediately causes irreparable credibility harm, and ongoing bias against, those
 13 who it is applied to. In this lawsuit, SEC's false financial illustrations, which it knew to be false,
 14 and its submission of a request under seal and *ex parte, prima facie*, where they could not be
 15 examined or contested by those who they made these fraudulent misrepresentations of, was all part
 16 of an interference with due process on the part of SEC and aided by the receiver in his employment
 17 subsequently as an agent of SEC, to which there can be no doubt, and all led to a constitutional
 18 violation of the Fourth Amendment to the Bill of Rights of the defendants with the seizure of their
 19 private property. Whether it is this Court, or even the Supreme Court, at some point, this will all be
 20 recognized.

21
 22 **II Conclusion**

23 There should be no payments of any amount to the Receiver or to his Counsel.

24 Respectfully submitted,

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 27 Mark Feathers, *Pro Se* Defendant

27 9-27-13



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

April 19, 2013

Mr. Mark Feathers
1520 Grant Road
Los Altos, CA 94024

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 13-00434-FOIA

Dear Mr. Feathers:

This letter is in response to your request, dated and received in this office on October 9, 2012, regarding "how many combined past and current receiverships related to SEC actions" Thomas Seaman Company has been involved in and revenue earned.

After consulting with SEC staff, we have determined Thomas Seaman Company has worked on the following five SEC cases:

SEC v. Nathanson, et al;
SEC v. Lambert Vander Tuig, et al;
SEC v. Safevest, LLC, et al;
SEC v. Medical Capital Holdings, Inc., et al; and
SEC v. Small Business Capital Corp., et al.

We have enclosed 45 pages reflecting Thomas Seaman Company's revenue for *SEC v. Nathanson, et al;* *SEC v. Lambert Vander Tuig, et al;* and *SEC v. Safevest, LLC et al.* Please be advised, *SEC v. Nathanson, et al,* is the only case that has been completed. All other matters are pending and the receivership process is ongoing.

We are withholding records regarding *SEC v. Medical Capital Holdings Inc., et al* and *SEC v. Small Business Capital Corp., et al,* under 5 U.S.C. § 552(b)(7)(A), 17 CFR § 200.80(b)(7)(i). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

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Institutional Clients

About the Company

Thomas Seaman, CFA

Judicial Receiver

Thomas Seaman Company

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Other Websites

- > [SEC vs. Nathanson](#)
- > [SEC vs. Carolina](#)
- > [SEC vs. Safevest](#)
- > [SEC vs. Medical Capital](#)
- > [FTC vs. American Tax Relief](#)
- > [SEC vs. Small Business Capital Corp.](#)

Welcome and thank you for your interest in our firm!



Thomas Seaman Company provides business management in civil matters which require a neutral third party to serve as receiver, referee, provisional director, or administrator. We have the capability to manage and administer a broad range of asset classes including operating companies, financial assets, and real property.

We contribute practical business experience to litigation. Thomas Seaman Company has broad financial and business experience and has operated companies in numerous industries including manufacturing, construction, healthcare, service and others. Since 1995 we have managed approximately 175 receiverships, usually being nominated by large financial institutions who repeatedly move the Court to appoint Thomas Seaman as receiver. Please see Thomas Seaman's [curriculum vitae](#). You may also wish to review our recent and noteworthy assignments and their outcome in the Cases sections of the website.

We believe that the function of a receiver is specialized and requires someone with business experience who also understands being a fiduciary, and is adept at operating in a judicial environment. Our business management skills give lenders a head start on stabilizing and, if appropriate, improving its collateral long before taking title. Defendants also benefit from our turnaround expertise and crisis management skills and many have regained possession of their assets as a result of our work.

We believe that our expertise in operating in a judicial environment can make counsel's job easier. We prepare and file the receiver's bond and oath required by the Appointing Order in accordance with the appropriate statutes. Our reports are prepared in accordance with the Court's requirements. We believe that our responsiveness to the parties and our successful performance assist counsel in the representation of their clients. At the appropriate time if selected to serve, we prepare a declaration setting forth our qualifications and certain other



THE STATE BAR
OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

~~Dane Dauphine, Assistant Chief Trial Counsel~~

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

TELEPHONE: (213) 765-1000

FAX: (213) 765-1168

<http://www.calbar.ca.gov>

April 30, 2013

Natalie Feathers
1520 Grant Rd.
Los Altos, CA 94024

RE: Inquiry Number: 13-14006
Respondents: John B. Bulgozdy, David R. Zaro and Edward G. Fates

Dear Ms. Feathers:

The State Bar's Office of the Chief Trial Counsel has reviewed your complaint against John B. Bulgozdy, David R. Zaro and Edward G. Fates (collectively, the "Respondents") to determine whether there are sufficient grounds for proceeding to prosecute a possible violation of the State Bar Act and/or Rules of Professional Conduct.

Mr. Bulgozdy represents the Securities Exchange Commission ("SEC") in *SEC v. Small Business Capital Corp., et al.*, Northern District of California case number 5:12-cv-03237-EJD. Thomas A. Seaman is the court-appointed receiver for the case. You explained that Mr. Bulgozdy misrepresented to the court, on more than one occasion, that Mr. Seaman is a licensed certified public accountant ("CPA"). On or about February 25, 2013, defendant Mark Feathers filed a Motion to Dismiss the Receiver, among other relief, due to Mr. Bulgozdy's misrepresentations to the court. You added that Mr. Zaro and Mr. Fates represent Mr. Seaman and never disputed Mr. Bulgozdy's misrepresentations.

Mr. Bulgozdy responded to your complaint. He acknowledged that he represents the SEC in the above-referenced case. He further acknowledged that two documents that he filed with the court reflected that Mr. Seaman is a licensed CPA. He explained that the CPA was a typographical error and he did not intend to misrepresent Mr. Seaman's credentials or mislead the court. He added that each court filing was accompanied by supporting documentation, which clearly demonstrated that Mr. Seaman is a [REDACTED]. Mr. Bulgozdy indicated that Mr. Feathers emailed him on February 22, 2013, February 23, 2013 and February 24, 2013 regarding the errors. He stated that he was unaware of the errors until Mr. Feathers brought them to his attention. He added that he has filed an opposition to Mr. Feathers' Motion.

The State Bar has the burden of proving willful ethical violations to the State Bar Court by clear and convincing evidence. We concluded that there is insufficient evidence to meet this burden of proof. Although Mr. Bulgozdy's court filings reflect that Mr. Seaman is a licensed CPA when in fact he is a [REDACTED], it is not clear that Mr. Bulgozdy willfully misrepresented Mr. Seaman's credentials or intended to deceive the court. Therefore, we are closing your complaint.

Natalie Feathers
April 30, 2013
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If you have any questions or disagree with the decision to close your complaint or have new information or other allegations not included in your initial complaint, you have two options. For immediate assistance, the first option is to speak directly with a Complaint Analyst. You may leave a voice message with Complaint Analyst Ms. Broderick at (213) 765-1215. Be sure to clearly identify the lawyer complained of, the case number assigned, and your telephone number including the area code in your voice message. The Complaint Analyst will return your call within two business days.

The second option is to request the State Bar's Audit & Review Unit to review your complaint. An attorney may re-open your complaint if he or she determines that you presented new, significant evidence about your complaint or that the State Bar closed your complaint without any basis. You must submit your request for review with the new evidence or a showing that closing your complaint was made without any basis. To request review, you must submit your request in writing, together with any new evidence, post-marked within **90 days of the date of this letter**, to:

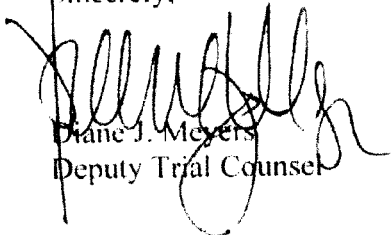
State Bar of California
Audit & Review Unit
1149 South Hill Street
Los Angeles, CA 90015-2299

Please note that telephonic requests for review will not be accepted.

The State Bar cannot give you legal advice. If you wish to consult an attorney about other remedies available to you, a certified lawyer referral service can provide the names of attorneys who may be able to assist you. In order to find a certified lawyer referral service, you may call our automated Lawyer Referral Services Directory at (866) 442-2529 or (415) 538-2250 or access the State Bar's website at www.calbar.ca.gov and search for information on lawyer referral services.

Thank you for bringing your concerns to the attention of the State Bar.

Sincerely,



Diane J. Meyers
Deputy Trial Counsel