

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

v.

THURMAN P. BRYANT, III and
BRYANT UNITED CAPITAL FUNDING, INC.

Defendants,

And

ARTHUR F. WAMMEL,
WAMMEL GROUP, LLC,
THURMAN P. BRYANT, JR.,
CARLOS GOODSPEED a/k/a SEAN PHILLIPS
d/b/a TOP AGENT ENTERTAINMENT d/b/a/
MR. TOP AGENT ENTERTAINMENT

Relief Defendants.

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Case 04:17-CV-00336-ALM

**REPLY IN SUPPORT OF THE MOTION OF RECEIVER FOR
EXPEDITED ORDER AUTHORIZING LIQUIDATION OF
CERTAIN BRYANT DEFENDANTS RECEIVERSHIP ASSETS**

Jennifer Ecklund, the Court-appointed Receiver (the “**Receiver**”) for Defendants Thurman P. Bryant, III (“**Bryant**”) and Bryant United Capital Funding, Inc. (“**BUCF**”) (Bryant and BUCF, collectively, the “**Bryant Defendants**”) and Relief Defendant Arthur F. Wammel (“**Wammel**”), Relief Defendant Wammel Group, LLC (the “**Wammel Group**”), and Wammel Group Holdings Partnership (“**WGHP**”) (together Wammel, Wammel Group, and WGHP, the “**Wammel Defendants**”) receivership estates (together, the “**Receivership Estate**” or the “**Receivership**”) in the above-captioned case (the “**Case**”), by and through undersigned counsel,

hereby files this Reply (the “**Reply**”) to *Defendant Thurman P. Bryant, III’s Opposition to Receiver’s Emergency Motion for Expedited Order Authorizing Liquidation of Certain Bryant Defendants’ Receivership Assets* [Dkt. No. 78] (the “**Response**”) and in support of the *Emergency Motion of Receiver for Expedited Order Authorizing Liquidation of Certain Bryant Defendants Receivership Assets* [Dkt. No. 71] (the “**Motion**”).

I. ARGUMENT

A. The Receivership Order grants the Receiver with power to seek liquidation.

Defendant Bryant argues in his Response that the Receiver is exceeding the powers granted under the Receivership Order. This is not true. The Receivership Order grants the Receiver “all powers and authority of a receiver at equity.” Amended Receivership Order, Dkt. No. 48 (the “**Receivership Order**”), at ¶ 4. At common law, an equity receiver has the power to dispose of property of the receivership estate when it appears that a receivership is continuing an enterprise that does not show evident signs of working for the benefit of the creditors. *See Jones v. Village of Proctorville*, 290 F.2d 49, 50 (6th Cir. 1961). Courts appointing a receiver “should see that the business is liquidated as economically and speedily as possible, unless its continuance is demonstrably beneficial to creditors.” *Id.* (citing *Kingsport Press, Inc. v. Brief English Sys.*, 54 F.2d 497, 501 (2d Cir. 1931)).

Moreover, the Receivership Order grants the Receiver with the power to dispose of personal property:

The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.

Receivership Order, at ¶ 35. Further, the Receivership Order specifically authorizes the Receiver to “develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property.” *Id.* at ¶ 50. Despite the Receivership Order’s grant of powers to the Receiver, the Receiver’s Motion outlines the Receiver’s fair, reasonable, and efficient plan of liquidation for the Bryant Defendants’ receivership property (the “**Bryant Receivership Assets**”) [*see* Dkt. Nos. 66 and 71] and requests the Court’s authority to move forward with the Receiver’s plan.

B. The Court may grant liquidation prior to resolving the merits of the claims against the Bryant Defendants.

Defendant Bryant also argues that no sale of assets should be permitted until after the adjudication of the final merits of the SEC civil case against him and the other Defendants. There is no need to wait. The Court may grant liquidation prior to resolving the merits of the claims against the Bryant Defendants. *See United States v. “A” Mfg. Co.*, 541 F.2d 504, 506 (5th Cir. 1976) (“The order of sale by the Court prior to the final accounting is a discretionary matter which will not be overturned on appeal except for abuse.”); *see also New York v. Kilsheimer*, 251 F.2d 175, 177 (2d Cir. 1957) (affirming the lower court’s decision to liquidate property and then determine the merits of the conflicting claims). In fact, in many instances, courts have granted liquidation prior to adjudication on the merits. *See, e.g., SEC v. Millennium Bank, et al.*, Case No. 7:09-cv-00050-O (N.D. Tex.) (orders granting motions to approve procedures to sell various receivership assets in 2009 and final judgment against defendants in 2011); *SEC v. Stanford International Bank Ltd., et al.*, Case No. 3:09-cv-00298-N (N.D. Tex.) (orders granting motions to approve procedures to sell various receivership assets in 2009, 2010, 2011, and 2012); *SEC v. W Financial Group, LLC, et al.*, Case No. 3:08-CV-0499-N (N.D. Tex.)

(orders granting motions to approve procedures to sell various receivership assets in 2009 and final judgment in 2010).

Regardless of the outcome of the civil case, it is beyond dispute that BUCF cannot continue to operate as a viable economic enterprise. Based upon the evidence and testimony elicited from the Injunction Hearing on August 2, 2017, the liquidation of the Bryant Receivership Assets is a foregone conclusion. It is the Receiver's duty to accumulate assets for ultimate distribution to the Receivership Estate investors and creditors. The liquidation of the Bryant Receivership Assets requested in the Motion will help the Receiver to fulfill that duty and accomplish that purpose.

C. Liquidation of the Bryant Defendants' Receivership Estate is in the best interest of the Receivership Estate to avoid further significant costs.

Delay in liquidation or approval of procedures for sale of assets will result in significant and unnecessary costs to the Receivership Estate. Continuing to hold and store the Bryant Receivership Assets provides no use or value to the Receivership Estate, while the delay of sale of the Bryant Receivership Assets forces the continued imposition of significant administrative and maintenance expenses by the Receiver. For example, the Receiver continues to incur storage costs and boarding fees for the storage of the Roadster and the Horse. The Receiver asks the Court to move without delay in approving the Motion. The Bryant Receivership Assets are forcing the Receivership Estate to accrue significant costs. If the Bryant Receivership Assets are not sold, the Receiver will have to continue to service the assets and maintain them. The proposed sale procedures are designed to minimize waste and to maximize value for the Receivership Estate.

II. CONCLUSION

For the foregoing reasons, the Receiver respectfully requests that this Court grant the Motion, deny the relief requested in the Response, and grant such other and further relief to which she may show herself justly entitled.

Dated: August 10, 2017.

Respectfully submitted,

By: /s/ Timothy E. Hudson

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CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2017, I electronically filed the foregoing document with the Clerk for the United States District Court, Eastern District of Texas. The electronic case filing system (ECF) will send a Notice of Electronic Filing (NEF) to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. The foregoing document will also be sent to all counsel of record via the method identified below.

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