

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

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

v. :

Civil Action No.: 4:17-cv-00336-ALM

THURMAN P. BRYANT, III, :
BRYANT UNITED CAPITAL FUNDING, INC., :
ARTHUR F. WAMMEL, :
WAMMEL GROUP, LLC, :
CARLOS GOODSPEED a/k/a SEAN PHILLIPS :
a/k/a GC d/b/a TOP AGENT ENTERTAINMENT :
d/b/a MR. TOP AGENT ENTERTAINMENT, :

Defendants, :

THURMAN P. BRYANT, JR., :

Relief Defendant. :

**PLAINTIFF’S REPLY IN SUPPORT OF ITS EMERGENCY MOTION
FOR EXPANSION OF RECEIVERSHIP, ASSET FREEZE,
PRELIMINARY INJUNCTION, AND ORDER TO MAKE ACCOUNTING**

Plaintiff Securities and Exchange Commission (“SEC”) files this Reply in Support of its Emergency Motion for Expansion of Receivership, Asset Freeze, Preliminary Injunction, and Order to Make Accounting [Doc. 199 – 201], and respectfully shows the Court the following:

**I.
SUMMARY**

Defendant Goodspeed does not oppose the SEC’s requests for a preliminary injunction and an order requiring Goodspeed to make a sworn accounting.¹ See Doc. 212, pp. 2-3. Thus,

¹ Counsel for the SEC and Goodspeed did discuss parameters of a preliminary injunction before the SEC filed its Motion, but the SEC does not recall Goodspeed agreeing to the sworn accounting requested in the Motion and

the only issues left for the Court to decide are the SEC's requests for: (1) expansion of the receivership to include Goodspeed, and (2) an order freezing Goodspeed's assets, pending further Court order.

Goodspeed highlights in his Response precisely why both forms of relief are still absolutely necessary, arguing that the conduct giving rise to the SEC's request "occurred months ago."² See Doc. 212, p. 2. Unfortunately, the SEC just recently learned of and confirmed the frequency and scope of Goodspeed's efforts to funnel money to Defendant Thurman P. Bryant, III ("Bryant"), through the Capital One bank account of Bryant's wife, Brandi Bryant, and the SEC filed its Motion less than two weeks later. See Doc. 201, p. 17; Doc. 201-2, p. 6 (APP. 6). Goodspeed's conduct is especially troubling when juxtaposed with the evidence presented by the SEC in its Motion for Show Cause Order against Goodspeed [Doc. 172]. While he was funneling money to Bryant from at least December 11, 2017 through at least March 27, 2018, Goodspeed continually refused to respond to myriad attempts (email and phone) by the SEC to schedule the remainder of his prematurely-terminated deposition and to obtain documents compelled by this Court's November 9, 2017 Order [Doc. 135]. See Doc. 172, pp. 5-6, at ¶¶ 7-9 (detailing numerous emails and phone calls the SEC made to Goodspeed during this timeframe).

Proposed Order [Doc. 199, p.3; Doc. 199-1, pp. 7-8, ¶¶16-17]. Based on his Response, the SEC presumes Goodspeed agrees to the Proposed Order language [Doc. 199-1, pp. 6-8, at ¶¶14-17], and will not address it here.

² In his Response, Goodspeed: (a) asserts that the SEC moved for emergency relief against him nearly a year after it filed suit, and (b) alleges that the SEC improperly frames its motion as an emergency, providing no specific basis for its emergency filing and claiming that "the SEC has undoubtedly been aware of Goodspeed's alleged conduct forming the basis of the Motion for months." Doc. 212, pp. 2, 5. As discussed herein and in its Memorandum of Law in Support of its Emergency Motion [Doc. 201], the SEC was unaware that Goodspeed was funneling money back to Bryant to pay personal expenses until just recently, which precipitated the SEC's request for emergency relief. In fact, contrary to Goodspeed's arguments, it was not until after the Court's April 18, 2018 Memorandum Opinion and Order [Doc. 188] denying the objections and motion to quash filed by Bryant's wife, Brandi Bryant, as to the SEC's RFPA subpoena for Ms. Bryant's bank records, that the SEC confirmed this information. See Doc. 201, p. 17. The SEC has **not** been aware of these facts since filing suit in May 2017. Rather, based upon evidence adduced in the last month about Goodspeed, it has become clear that emergency relief is needed to marshal and safeguard investor assets within Goodspeed's possession, custody, or control.

Further, Goodspeed's conduct is even more egregious in light of specific admonitions made to him on November 27, 2017 by counsel for the SEC and counsel for the Receiver during his deposition, and his acknowledgment of the admonition and of his obligations under the Amended Receivership Order. *See* Doc. 201, p. 21. Additionally, the Court must also consider Goodspeed's contempt—for nearly six months—of the Court's November 9, 2017 Order compelling Goodspeed to comply with his discovery obligations in this case. *See* Doc. 135, pp. 1-2.

In sum, and bluntly, Goodspeed cannot be trusted. He has consistently, blatantly, and notoriously disregarded this Court's orders throughout this litigation. This track record³ underscores why a preliminary injunction and sworn accounting *alone*—regardless of the scope of conduct Goodspeed may be willing to agree to be restrained and enjoined from—is insufficient. Nothing short of a receivership and an asset freeze order will fully protect investors' interests, prevent dissipation of BUCF investor funds entrusted to Goodspeed, and ensure that a future disgorgement order (or whatever equitable relief the Court may ultimately order) will have effect.

II. **ARGUMENTS**

In his Response, Goodspeed argues that the Court should not expand the receivership to include him and should not freeze his assets, because: (1) he is willing to agree to the SEC's requests for a preliminary injunction and a sworn accounting, which is sufficient to address the issues raised by the SEC; and (2) the SEC's improperly-framed emergency motion is based on

³ Counsel for the SEC recognizes attempts made over the last 10 days by Mr. Hill, Goodspeed's counsel, to try to resolve numerous issues related to Goodspeed. The SEC simply cannot get comfortable with a preliminary injunction alone because of Goodspeed's history of disregarding this Court's directives. Based on these significant experiences, neither the Court nor the SEC nor the Receiver can rely on Goodspeed to comply with Court orders.

unsupported presumptions and Goodspeed had no involvement with any investors made the subject of the SEC's claims. These arguments are unavailing for a variety of reasons.

A. A Preliminary Injunction and Sworn Accounting Alone Will Not Protect Investors.

Throughout his Response, Goodspeed argues that a preliminary injunction and a sworn accounting will adequately address the issues raised by the SEC in its Motion. *See* Doc. 212, pp. 2-3, 7-12. This assertion is based on two flawed premises: (1) that Goodspeed will comply with any such orders; and (2) that, if he chooses to violate an agreed preliminary injunction, the SEC and/or Receiver will learn about the violations in time to protect aggrieved investors. Throughout this litigation, Goodspeed has consistently and blatantly disregarded several orders of this Court. In particular, Goodspeed has violated the: (1) May 15, 2017 *Ex Parte* Order Granting Motion for Temporary Restraining Order Preliminary Injunction, Asset Freeze, Appointment of Receiver, Document Preservation Order, Order to Make Accounting and Other Emergency Relief, and Setting Hearing Date on Plaintiff's Preliminary-Injunction Motion [Doc. 16 ("Asset Freeze Order")]; (2) July 19, 2017 Amended Order Appointing Receiver [Doc. 48 ("Receivership Order")], and (3) November 9, 2017 Order compelling Goodspeed to comply with discovery obligations [Doc. 135 ("Order to Compel")].

1. Asset Freeze Order

As discussed in the SEC's Memorandum of Law [Doc. 201, pp. 14-17], Goodspeed was personally served on May 19, 2017 with the Asset Freeze Order [Doc. 28], which specifically restrained and enjoined him from engaging in certain conduct, including by:

- all persons participating with Bryant from "making any payment or expenditure of funds, incurring any additional liability ... or effecting any ... other disposition of any asset ...;" [Doc. 16, at ¶15]
- any individual or entity holding accounts or assets for or on behalf of Bryant or BUCF from making any "transactions in assets or securities ... and no

disbursement of assets or securities ... unless otherwise ordered by this Court;” *Id.*

- any individual to “restrain and enjoin such ... individual from disbursing assets, directly or indirectly, to or on behalf of [Bryant or BUCF], or any companies or persons or entities under their control;” [*Id.* at ¶16]
- “all other individuals ... are hereby restrained and enjoined from disbursing any funds ... or other property obtained from [Bryant or BUCF] without adequate consideration;” [*Id.* at ¶18] and
- individuals “that holds or has held, controls or has controlled, or maintains or has maintained custody of any of [Bryant’s or BUCF’s] funds, securities or other property at any time since January 1, 2010 shall ... be prohibited from withdrawing, removing ... disbursing, dissipating, converting ... or otherwise disposing of [Bryant’s or BUCF’s] Assets, except as directed by further Order of the Court.” [*Id.* at ¶19].

In November 2017, more than five months after being personally served with the Asset Freeze Order, Goodspeed testified under oath that he still had access to \$1.45 million that belonged to BUCF. *See* Doc. 201, App. 28 at 160:21-25 (\$850,000 from the Drake concert investment); App. 39 at 208:14-19 (\$600,000 from the Taylor Swift concert investment.) He also represented that he and Bryant were actively discussing how to make further investments of at least \$850,000 that Goodspeed claimed he controlled for BUCF. *See* Doc. 201, App. 30-31 at 168:9-169:12. If Goodspeed’s sworn testimony is to be believed, he still controlled BUCF investor funds as of November 2017. However, in his Response, Goodspeed alleges that “none of the funds transferred were alleged investor funds . . . and were all funds borrowed from Goodspeed’s friends or family.”⁴ *See* Doc. 212, p. 8. Thus, either Goodspeed no longer controls the BUCF investor funds that he claimed to control on November 27, 2017—which violates the

⁴ While Goodspeed declares that he loaned funds to Bryant to pay his living expenses—and that Goodspeed, in turn, obtained these funds as loans from his friends and family—he does not include any other details about these loans. Further, he does not attach any documentation to support his self-serving claim that these funds were loans from friends and family so he could loan money to Bryant. What is clear, though, is that these transfers to Bryant violated the Court’s Asset Freeze Order and Receivership Order, as detailed above, and that Goodspeed claimed as recently as November 2017 that he still controlled BUCF funds.

Asset Freeze Order provisions above—or he still controls those funds but has not transferred them to the Receiver, as required by the Receivership Order (see discussion below). Further, even if Goodspeed’s sworn testimony is to be believed, he still violated at least paragraphs 15 and 16 of the Asset Freeze Order, which restrains and enjoins Goodspeed from: (a) “directly or indirectly, making any payment or expenditure of funds . . . or effecting any sale, gift, hypothecation or other disposition of any asset . . .,” and (b) “disbursing assets, directly or indirectly, to or on behalf of [Bryant or BUCF], or any companies or persons or entities under their control. *See* Doc. 16, p. 5, at ¶¶ 15-16.

2. The Receivership Order

On July 21, 2017, the Receiver served the Receivership Order on Goodspeed [Doc. 48], which restrained and enjoined Goodspeed, as a person with direct or indirect control over assets belonging to Bryant and BUCF, from “directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets.” *See* Doc. 48, p. 2, at ¶3. Further, the Receiver was authorized to “take immediate possession of all assets, bank accounts or other financial accounts . . . relating to [Bryant and BUCF],” and “[a]ll persons and entities having control, custody or possession of any Receivership Property [were] hereby directed to turn such property over to the Receiver.” *Id.*, pp. 6-7, at ¶14. Additionally, Goodspeed—as either a person acting for or on behalf of Bryant and BUCF, or as a person receiving notice of the Receivership Order—was directed to deliver possession of property, accounts, or assets of Bryant or BUCF to the Receiver. *Id.*, p. 7, at ¶15.

In this case, it is undisputed that Goodspeed has not transferred, or directed the transfer of, any Bryant or BUCF assets within his possession, custody, or control to the Receiver. Goodspeed further violated the Receivership Order by directly or indirectly pledging, disposing

of, or withdrawing assets belonging to Bryant or BUCF.

3. Order to Compel

For six months, Goodspeed ignored this Court's November 9, 2017 Order compelling Goodspeed to: (a) respond to the SEC's First Request for Production by November 20, 2017; (b) appear for his deposition on November 27, 2017; and (c) reimburse the SEC for expenses it incurred in drafting and filing its motion to compel. *See* Doc. 135, pp. 1-2. As recounted in the SEC's Motion for Show Cause Order [Doc. 172], Goodspeed prematurely terminated his deposition over objections from the SEC and the Receiver and refused to respond to numerous attempts to reschedule the rest of his deposition. *See* Doc. 172, pp. 5-6. Further, Goodspeed provided non-responsive and evasive answers to the questions posed to him during his deposition. *Id.* at pp. 6-10. Similarly, until last Friday (May 4, 2018), Goodspeed refused to produce a single document in response to the SEC's First Request for Production. *Id.* at p. 10.⁵

Goodspeed's refusal to comply with the Order to Compel for more than six months is particularly egregious in light of his funneling money to Bryant during this exact same time period. And the conduct is even more confounding in light of a specific admonition as to the terms of the Receivership Order and Asset Freeze Order that counsel for the SEC and counsel for the Receiver made to him during his November 27, 2017 deposition and his acknowledgment of that admonition. *See* Doc. 201, p. 21 (App. 43 at 239:10-24). Further, Goodspeed's acknowledgment also undermines his current representation to the Court that he did not understand that transfers to Bryant violated existing Court orders, because he did not have

⁵ Goodspeed's May 4, 2018 document production included a total of 26 pages. The produced documents were limited to communications with persons who appear unrelated to the facts underlying this lawsuit. Those communications occurred between June 8, 2011 and April 27, 2013—more than two and a half years before Goodspeed purportedly met Bryant. Conspicuously absent from this production are the limited sampling of Goodspeed's emails to Bryant that were attached to the SEC's Motion. *See, e.g.*, Doc. 201, App. 45-46, 54-66.

counsel at the time. *See* Doc. 212, p. 8.

4. A Receivership and an Asset Freeze are Necessary to Protect BUCF Investors, Preserve the Status Quo, and Prevent Dissipation of Assets

As detailed above, Goodspeed's conduct throughout this litigation with respect to multiple orders of this Court reveals very clearly that he cannot be relied upon to comply with Court orders. As such, a preliminary injunction alone is insufficient to adequately address and account for the high risk that Goodspeed may disregard the preliminary injunction. Nothing short of a receivership and an asset freeze order will adequately protect investors, prevent the dissipation of BUCF investor funds that may still be within Goodspeed's possession, custody, or control, and ensure that a future disgorgement order (or whatever equitable relief the Court may ultimately order) will have effect. The Court can appoint a receiver where necessary to: (1) protect "those who have already been injured by a violator's actions from further despoliation of their property or rights" [*Esbitt v. Dutch-American Mercantile Corp.*, 335 F.2d 141, 143 (2d Cir. 1964)]; (2) preserve the status quo while transactions are being unraveled in order to determine an accurate picture of the fraudulent conduct [*SEC v. First Fin. Grp.*, 645 F.2d 429, 438 (5th Cir. 1981)]; or (3) prevent the dissipation of a defendant's assets pending further action by the court [*Id.*; *see also SEC v. American Bd. of Trade, Inc.*, 830 F.2d 431, 436-37 (2d Cir. 1987)].

Further, an asset freeze is appropriate to assure Goodspeed's satisfaction of whatever equitable relief the Court ultimately may order. *See, e.g., SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082, 1106 (2d Cir. 1972); *CFTC v. Muller*, 570 F.2d 1296, 1300 (5th Cir. 1978). The Court's power to freeze assets extends to accounts over which a defendant exercises effective control, even if the ill-gotten gains have not been traced to the account, (*SEC v. Grossman*, 887 F. Supp. 649, 661 (S.D.N.Y. 1995)), because an asset freeze "facilitate(s) enforcement of any disgorgement remedy that might be ordered" and may be granted "even in circumstances where

the elements required to support a traditional SEC injunction have not been established.” *SEC v. Unifund SAL*, 910 F.2d 1028, 1041 (2d Cir. 1990). An asset freeze is sometimes necessary to ensure that a future disgorgement order will have effect. *See, e.g., United States v. Cannistraro*, 694 F. Supp. 62, 71 (D.N.J. 1988), *aff’d in part, vacated in part on other grounds*, 871 F.2d 1210 (3d Cir. 1989); *SEC v. Vaskevitch*, 657 F. Supp. 312, 315 (S.D.N.Y. 1987); *SEC v. R. J. Allen & Assocs., Inc.*, 386 F. Supp. 866, 881 (S.D. Fla. 1974).

B. The SEC Established the Likelihood of its Success on the Merits of its Securities Fraud Claims Against Goodspeed, and That Bryant Used BUCF Investor Funds to Invest With Goodspeed.

Goodspeed argues variously that the SEC cites to alleged violations of the federal securities laws that occurred months ago, and that the SEC supports its request for a receivership and asset freeze with unsupported presumptions. *See* Doc. 212, pp. 2, 5-6.

In moving this Court to preliminarily enjoin Goodspeed, the SEC was required to show a likelihood of success on the merits of its case against Goodspeed. *See* Doc. 201, pp. 19-20; 15 U.S.C. § 77t(b); 15 U.S.C. § 78u(d); *see also SEC v. Cavanagh*, 155 F.3d 129, 132 (2d Cir. 1998). Similarly, to support its request for a receiver, the SEC made a prima facie showing of fraud. *See* Doc. 201, pp. 10-14, 19-28]; *see also First Fin. Grp.*, 645 F.2d at 438. Thus, the SEC presented the Court with extensive evidence establishing these things, including that Goodspeed entered investment contracts with BUCF, through Bryant, and committed to do certain things. *See* Doc. 201, pp. 10-13. Despite these investment contracts, Goodspeed’s bank records reveal that Goodspeed engaged in a practice of receiving BUCF investor funds from Bryant for specific investments—including concert tours for Taylor Swift and Drake—and then repeatedly used the funds for personal expenses wholly unrelated to those purposes. *Id.* In support of his Response, Goodspeed includes only a wholly self-serving and unsubstantiated, sworn Declaration. *See*

Doc. 212-1. He does not include any corroborating documents or sworn declarations from third parties that specifically refute any of the evidence presented by the SEC in its Motion. Similarly, he does not contest that he used the BUCF investor funds invested with him by Bryant for solely personal expenses, and not in furtherance of efforts to book the concert tours he represented to Bryant. *See* Doc. 201, p. 14 (citing App. 32 at 174:5-14; App. 33 at 182:22-24).

Further, while Goodspeed contends that he “had no involvement, of any kind or nature, with the solicitation of any alleged investors made the subject of any of the SEC’s claims in this suit . . .,” it is undisputed that Goodspeed entered investment contracts with BUCF, by and through Bryant, and that Bryant and BUCF are defendants in this action. In addition, Bryant’s comments during Goodspeed’s deposition strongly indicate that he expected Goodspeed to spend the BUCF investments on concert-related expenses, not personal expenses. *See* Doc. 201, p. 26 n.11 (citing App. 42 at 238:19 (“if you spent my money inappropriately, shame on you.”)).

III. **CONCLUSION**

The SEC respectfully requests that the Court enter orders providing the relief requested in its Motion and supporting Memorandum.

Dated: May 9, 2018

Respectfully submitted,

/s/ Jason P. Reinsch
JASON REINSCH
Texas Bar No. 24040120

United States Securities and Exchange
Commission
Fort Worth Regional Office
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
Ph: 817-900-2601
Fax: 817-978-4927
reinschj@sec.gov

**ATTORNEY FOR PLAINTIFF
SECURITIES AND EXCHANGE
COMMISSION**

CERTIFICATE OF SERVICE

I hereby certify that, on May 9, 2018, I electronically filed the foregoing *Plaintiff's Reply in Support of its Emergency Motion for Expansion of Receivership, Asset Freeze, Preliminary Injunction, and Order to Make Accounting* with the Clerk of Court for the Eastern District of Texas, Sherman Division using the CM/ECF system, which will send a notice of electronic filing to all counsel of record who have consented to electronic notification. I further certify that I emailed and mailed by first-class mail the foregoing document and the notice of electronic filing to all non-CM/ECF participants.

/s/ Jason P. Reinsch
Jason P. Reinsch