

**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 a sworn accounting.¹ See Doc. 212, pp. 2-3. Thus, the only issues left for

¹ Counsel for the SEC and Goodspeed discussed parameters of an injunction before the Motion was filed, but the SEC doesn’t recall any agreement on the requested sworn accounting [Doc. 199, p.3; Doc. 199-1, pp. 7-8, ¶¶14-17]. Per his Response, the SEC presumes Goodspeed agrees to the Proposed Order language and will not address it here.

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 precisely why this relief is still needed, arguing that conduct giving rise to the SEC's request "occurred months ago."² *Id.* at 2. Unfortunately, the SEC just recently learned/confirmed the frequency and scope of Goodspeed's efforts to funnel money to Defendant Thurman P. Bryant, III ("Bryant"), through the Capital One account of Bryant's wife, Brandi Bryant, and the SEC filed its Motion less than two weeks later. Doc. 201, p. 17; Doc. 201-2, p. 6 (APP. 6). Goodspeed's conduct is especially troubling when juxtaposed with the evidence in the SEC's Motion for Show Cause Order against Goodspeed [Doc. 172]. While he funneled money to Bryant from December 11, 2017 through March 27, 2018, Goodspeed continually refused to respond to myriad SEC attempts to schedule his prematurely-terminated deposition and obtain documents compelled by this Court's November 9, 2017 Order [Doc. 135]. Doc. 172, pp. 5-6 (¶¶ 7-9). Goodspeed's conduct is even more egregious in light of specific admonitions made during his November 27, 2017 deposition, and his acknowledgment of his obligations under the Receivership Order. Doc. 201, p. 21. Additionally, the Court must consider Goodspeed's contempt—for nearly six months—of the Court's November 9, 2017 Order compelling Goodspeed to comply with discovery obligations in this case. *See* Doc. 135, pp. 1-2.

In sum, and bluntly, Goodspeed cannot be trusted. He has consistently and blatantly

² Goodspeed asserts the SEC: (a) moved for emergency relief against him a year after filing suit, and (b) improperly calls its motion an emergency because it "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 [Doc. 201], the SEC was unaware Goodspeed was funneling money to Bryant until just recently, which precipitated this request for emergency relief. Contrary to Goodspeed's arguments, it was not until after the Court's April 18, 2018 Order [Doc. 188] denying the objections and motion to quash filed by Bryant's wife, Brandi Bryant, as to the SEC's 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 its May 2017 filing. Rather, it was evidence adduced in the last month that clarified that emergency relief is needed to marshal and safeguard assets within Goodspeed's possession, custody, or control.

disregarded this Court's orders. This track record³ underscores why a preliminary injunction and sworn accounting *alone*—regardless of conduct from which Goodspeed may be willing to agree to be restrained and enjoined—is insufficient. Nothing short of a receivership and asset freeze will fully protect investors' interests, prevent dissipation of investor funds, and ensure that a future disgorgement order (or other equitable relief the Court ultimately orders) will have effect.

II. **ARGUMENTS**

Goodspeed argues the Court should not expand the receivership and should not freeze his assets, because: (1) he's willing to agree to a preliminary injunction and a sworn accounting, which are sufficient to address the SEC's issues; and (2) the SEC's improperly-framed emergency motion is unsupported 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.

Goodspeed argues that a preliminary injunction and a sworn accounting will adequately address issues raised in the SEC's 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 a 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, including 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-

³ SEC Counsel recognizes attempts over the last 10 days by Mr. Hill, Goodspeed's counsel, to resolve numerous issues, but the SEC simply cannot get comfortable with a preliminary injunction alone due to Goodspeed's history of disregarding this Court's orders. Goodspeed cannot be relied upon to comply with another order.

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

Goodspeed was personally served on May 19, 2017 with the Asset Freeze Order [Doc. 28], which specifically restrained and enjoined certain conduct, including by (1) 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]; (2) any individual holding accounts/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.*]; (3) 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]; (4) “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 (5) 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 ... 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 served with the Asset Freeze Order, Goodspeed testified he still had access to \$1.45 million that belonged to BUCF. Doc. 201, App. 28 at 160:21-25 (\$850,000 from Drake concert investment); App. 39 at 208:14-19 (\$600,000 from Taylor Swift concert investment.) He also represented he and Bryant were

actively discussing further investments of at least \$850,000 that Goodspeed claimed he controlled for BUCF. 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, Goodspeed now alleges that “none of the funds transferred were alleged investor funds ... and were all funds borrowed from Goodspeed’s friends or family.”⁴ Doc. 212, p. 8. Thus, either Goodspeed no longer controls BUCF investor funds he claimed to control on November 27, 2017—which violates the Asset Freeze Order provisions above—or he still controls those funds but has not sent them to the Receiver, as required by the Receivership Order (discussion below). Even crediting Goodspeed’s sworn testimony, he still violated paragraphs 15-16 of the Asset Freeze Order, which restrains/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. 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.” Doc. 48, p. 2 (¶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

⁴ While Goodspeed attests to loaning funds to Bryant to pay living expenses—and that Goodspeed, in turn, received these funds as loans from friends and family—he does not include any other details about these loans. He does not attach any documentation to support his self-serving claim that the funds were loans from friends and family. 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.

“[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.* at 6-7 (¶14). Additionally, Goodspeed was directed to deliver Bryant/BUCF assets to the Receiver (*Id.* at 7 (¶15)), but Goodspeed has not transferred, or directed the transfer of, any Bryant/BUCF assets within his possession, custody, or control to the Receiver. He also violated the Receivership Order by directly or indirectly pledging, disposing of, or withdrawing assets belonging to Bryant/BUCF.

3. Order to Compel

For six months, Goodspeed ignored this Court’s November 9, 2017 Order compelling Goodspeed to: respond to the SEC’s First Request for Production; appear for his deposition; and reimburse the SEC for expenses incurred in drafting/filing its motion to compel. Doc. 135, pp. 1-2. As cited 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. 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 10.⁵

Goodspeed’s refusal to comply with the Order to Compel for six months is particularly egregious in light of his funneling money to Bryant despite a specific admonition as to the Receivership Order and Asset Freeze Order that counsel for the SEC and the Receiver made during his November 27, 2017 deposition and his acknowledgment thereof. Doc. 201, p. 21

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.

(App. 43 at 239:10-24). Goodspeed's acknowledgment also undermines his representation that he did not understand that transfers to Bryant violated existing Court orders. 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

Goodspeed cannot be relied upon, as illustrated by his disregard of multiple Court orders in this case. A preliminary injunction alone is insufficient to adequately address and account for the high risk that Goodspeed may disregard an injunction. Nothing short of a receivership and an asset freeze order will adequately protect investors, prevent dissipation of investor funds that may still be within Goodspeed's possession, custody, or control, and ensure a future disgorgement order (or other equitable relief the Court may order) will have effect.⁶

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 Ctrs., 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 may be necessary to ensure 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.

⁶ Courts appoint a receiver 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 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 dissipation of assets pending further Court action [*Id.*; *SEC v. American Bd. of Trade, Inc.*, 830 F.2d 431, 436-37 (2d Cir. 1987)].

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 Success on the Merits of its Fraud Claims Against Goodspeed and Bryant Used Investor Funds to Invest With Goodspeed.

Goodspeed argues variously that the SEC alleges securities violations occurring months ago, and that the SEC supports its requests with unsupported presumptions. Doc. 212, pp. 2, 5-6.

In moving for a preliminary injunction, the SEC was required to show a likelihood of success on the merits of its case against Goodspeed. 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). To support its request for a receiver, the SEC made a prima facie showing of fraud. 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 certain things. Doc. 201, pp. 10-13. The bank records reveal Goodspeed engaged in a practice of receiving BUCF investor funds from Bryant for specific investments and then repeatedly using the funds for personal expenses unrelated to those purposes. *Id.* In support, Goodspeed includes only a self-serving, unsubstantiated Declaration. Doc. 212-1. He does not include any corroborating documents or third-party declarations refuting any evidence presented in the SEC's Motion, nor does he contest that he used BUCF investor funds from Bryant for personal expenses, and not to further efforts to book concert tours he represented to Bryant. 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 11, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 11, 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