

**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 UNOPPOSED MOTION TO ESTABLISH A FAIR  
FUND AND BRIEF IN SUPPORT**

Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) respectfully files this Unopposed Motion to Establish Fair Fund and Brief in Support (the “Motion”), and respectfully shows the Court the following:

**I.  
SUMMARY**

The Commission moves the Court for an order establishing a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended (“Sarbanes-Oxley”) [15 U.S.C. § 7246(a)], for the purpose of distributing civil penalty payments to aggrieved investors. Defendant Carlos Goodspeed a/k/a Sean Phillips a/k/a GC d/b/a Top Agent Entertainment d/b/a Mr. Top Agent Entertainment (“Goodspeed”) presented the Commission with a settlement offer,

and counsel for the Commission intends to recommend it to the Commission. Among other things, the Goodspeed settlement proposal contemplates the payment of disgorgement, prejudgment interest, and a civil penalty. It further provides that all settlement payments would be directed to the Court-appointed Receiver, Jennifer Ecklund (the “Receiver”), for ultimate distribution to the aggrieved investors pursuant to a Court-approved distribution plan. However, pursuant to Section 308(a) of Sarbanes-Oxley, a Fair Fund must be established by the Court in order for civil penalty amounts to be used in this manner. With this Motion, the Commission requests that the Court establish a Fair Fund pursuant to Section 308(a) of Sarbanes-Oxley so that any penalty payments made by Goodspeed can be distributed to defrauded victims pursuant to a Court-approved distribution plan.

## **II. RELEVANT BACKGROUND**

The Commission filed its First Amended Complaint [Dkt. No. 154] on January 26, 2018, asserting various claims against Goodspeed for violations of Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5(b) thereunder and Section 17(a)(2) of the Securities Act of 1933 (the “Securities Act”). As alleged in the First Amended Complaint, from January 2017 through April 2017, Goodspeed and Defendant Bryant United Capital Funding, Inc. (“BUCF”) entered into multiple investment contracts through which Defendant Thurman P. Bryant, III (“Bryant”)—acting on behalf of BUCF and unbeknownst to BUCF’s investors—invested \$1.37 million of BUCF investors’ funds with Goodspeed to, *inter alia*, produce, promote, and operate concerts headlined by Taylor Swift and Aubrey Drake Graham a/k/a Drake (“Drake”). First Am. Compl. [Dkt. No. 154] at 4, ¶ 7. Goodspeed explicitly represented to Bryant that the investments involved no risk and that he personally guaranteed the investment principal. *Id.* Goodspeed’s representations concerning the Drake and Taylor Swift

concerts were false. *Id.* at ¶ 8. Goodspeed and Bryant never had any contracts or other dealings with these artists; and no concert tours were planned or contemplated during the relevant periods claimed by Goodspeed. *Id.* Neither the Drake nor the Taylor Swift concert series came to fruition. In fact, Goodspeed did not use any of the BUCF investors' \$1.37 million for the alleged Drake and Taylor Swift concerts; instead, he used investor funds to, *inter alia*, fund his lavish lifestyle and pay back other investors from previous frauds he perpetrated. *Id.* at 5, ¶ 8.

After the filing of the First Amended Complaint, Goodspeed and the Commission engaged in settlement discussions, which yielded a settlement offer from Goodspeed that would resolve the Commission's claims against him. The Goodspeed settlement proposal contemplates Goodspeed consenting to the entry of a Final Judgment that would include orders to pay disgorgement, prejudgment interest, and a civil penalty, and would direct payment of the monetary relief to the Receiver to be distributed to aggrieved investors, as directed by the Court.

### **III. LEGAL AUTHORITY**

The Commissions requests that the Court establish a Fair Fund pursuant to Section 308 of Sarbanes-Oxley, thereby allowing any judgment payments—particularly the penalty payments—to be directed to the Receiver and ultimately distributed to benefit defrauded victims, pursuant to a Court-approved distribution plan. Section 308 of Sarbanes-Oxley Act, entitled “Fair Funds for Investors,” provides that civil penalties paid in SEC cases may be distributed to victims rather than simply remitted to the United States Treasury. Section 308(a), states:

*Civil Penalties to be used for the relief of victims.* If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund

or other fund established for the benefit of the victims of such violation.

15 U.S.C. § 7246(a).

Pursuant to that authority, the Commission requests that the Court designate any judgment payments made or to be made by Goodspeed as a “Fair Fund” under Section 308 of Sarbanes-Oxley and that such funds be added to the Receivership Funds, as defined in the Court’s Amended Order Appointing the Receiver. *See* Dkt. No. 48 at 12, ¶ 33. Such a designation, hereinafter referred to as the “Goodspeed Fair Fund,” will permit Goodspeed’s payments of a civil penalty in satisfaction of the proposed Final Judgment to be distributed to defrauded victims. This will serve the aims of Sarbanes-Oxley’s Section 308(a) and further augment the relief of the victims.

#### **IV. CONCLUSION**

For the foregoing reasons, the Commission respectfully requests that the Court grant this Motion and establish the Goodspeed Fair Fund thereby permitting monetary payments made by Goodspeed to be directed to the Receiver for inclusion in the Receivership Funds, and that the Court grant the Commission any other relief to which it may be justly entitled.

Dated: September 7, 2018

Respectfully submitted,

/s/ Jason P. Reinsch

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COMMISSION

**CERTIFICATE OF CONFERENCE**

I hereby certify that I complied with the meet and confer requirement in Local Rule CV-7(h), and on September 5, 2018 counsel for Goodspeed communicated that Goodspeed is unopposed to the requested relief.

/s/ Jason P. Reinsch

Jason P. Reinsch

**CERTIFICATE OF SERVICE**

I hereby certify that, on September 7, 2018, I electronically filed the foregoing *Plaintiff's Unopposed Motion to Establish a Fair Fund and Brief in Support* 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 mailed the foregoing document and the notice of electronic filing by first-class mail to all non-CM/ECF participants.

/s/ Jason P. Reinsch

Jason P. Reinsch

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**ORDER ESTABLISHING A FAIR FUND**

Before the Court is Plaintiff’s Unopposed Motion to Establish a Fair Fund and Brief in Support (the “Motion”). Having considered the Motion and the record in this case, the Court is of the opinion that the Motion should be GRANTED. Therefore, it is:

ORDERED that, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended [15 U.S.C. § 7246(a)], the Court hereby establishes the Goodspeed Fair Fund.

IT IS SO ORDERED.