

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC,**

**Plaintiff,**

**VS.**

**Case No. 3:18-cv-000679**

*Arising out of Case No. 3:18-cv-252,  
Securities Exchange Commission v.  
Arthur Lamar Adams and Madison Timber  
Properties, LLC*

**Hon. Carlton W. Reeves, District Judge  
Hon. F. Keith Ball, Magistrate Judge**

**MICHAEL D. BILLINGS and  
MDB GROUP, LLC;  
TERRY WAYNE KELLY, JR. and  
KELLY MANAGEMENT, LLC;  
and WILLIAM B. MCHENRY, JR. and  
FIRST SOUTH INVESTMENTS, LLC,**

**Defendants.**

**COMBINED MOTION OF WILLIAM B. MCHENRY, JR. AND  
FIRST SOUTH INVESTMENT, LLC FOR ADDITIONAL TIME TO  
FILE RESPONSE TO RECEIVER’S MOTION FOR SUMMARY JUDGMENT  
AND FOR ACCESS TO EXHIBITS INTRODUCED AT  
ARTHUR LAMAR ADAMS’ SENTENCING HEARING**

William B. McHenry, Jr. and First South Investments, LLC (“Bill McHenry”) move for an additional 14 days to file a Response to Receiver’s Motion for Summary Judgment [Docket 31] and for access to exhibits introduced at Arthur Lamar Adams (“Adams”) October 29 and 30 Sentencing Hearing and in support submits the following:

**I. 14 DAY EXTENSION**

1. Since the first meeting with the Receiver and her counsel, Bill McHenry has cooperated with the Receiver. Bill McHenry provided access to office space once occupied by Lamar Adams (“Adams”) and preserved all papers, personal property and accessories of Adams for the Receiver’s review and disposition. Bill McHenry provided documents without a subpoena,

provided the requested financial disclosures and released accountant's records to the Receiver without a subpoena.

2. Bill McHenry sought a resolution and agreed to all pre-conditions required by the Receiver for settlement discussions. Bill McHenry agreed to the initial Preliminary Injunction, abided by its spirit pending renewal and agreed to the current Preliminary Injunction.

3. Bill McHenry made a good faith proposal for an orderly liquidation of his assets. His offer was rebuffed by the Receiver without any counter proposal. The Receiver's decision to not even attempt to reach any settlement inserted Bill McHenry as a litigant even though he earnestly sought to settle.

4. Initially a second defendant, Michael P. Billings ("Billings") and his related entity did not enter into the Receiver's settlement process. Billings filed an Answer [Docket 16], Motion to Dismiss Count IV of the Amended Complaint [Docket 23] and Opposition to Receivers Motion for Entry of Scheduling Order for Summary Proceedings [Docket 18] and Response in Opposition to Receivers Motion for Preliminary Injunction [Docket 28]. Once it was abundantly clear Receiver had no interest in any resolution with him, Bill McHenry, to the extent possible, essentially tagged along with Billings' filings.

5. Recently, all scheduling involving Billings was suspended and it appears there is a settlement in the works. The other Defendants', Wayne Kelly and his legal entity, settlement offer had already been accepted and finalized. Thus Bill McHenry, who earnestly sought a resolution, is essentially left "dangling in the wind" as the reluctant litigant. With Billings removed as a lead Defendant from a litigation perspective, Bill McHenry needs additional time to investigate the matter and to formulate a response to the Receiver's Summary Judgment motion.

6. Bill McHenry has entered into an agreed Preliminary Injunction and the Receiver has his financial disclosure. No assets will be sold without appropriate notice to the Receiver. The

Receiver is intimately familiar through his financial disclosures with Bill McHenry's assets and liabilities. Having that knowledge and having rejected out of hand, his good faith proposal to settle, the Receiver's need for expedited proceeding no longer exists. Accordingly, an extension of 14 days from December 6 to December 20, 2018, will not, indeed, cannot prejudice the Receiver.

7. At the time of filing, the Receiver has not responded to the request for additional time.

## **II. ACCESS TO SEALED EXHIBITS**

8. At Adams' sentencing hearing on October 29, the United States introduced six exhibits marked G1 through G6. A two (2) paged excerpt from the hearing is attached as Exhibit A. At the hearings, the Assistant U.S. Attorney explained, "Government's Exhibit 1 ... is the redacted transcript interview of Arthur Lamar Adams from April 19, 2018." He described the other exhibits in the excerpts appearing as Exhibit A. At the sentencing hearing, Defendant Adams' counsel also introduced six exhibits (D1 through D6). These exhibits are material to Bill McHenry's defense. The Clerk's Office has informed counsel that these exhibits are sealed.

9. The Receiver's Initial Disclosures list among "categories of documents in [Receiver's] possession, custody or control [that] may be used to support her claims" include the following: "7. Statements by Lamar Adams" and "8. Statements by any investor from whom Billings or McHenry was the recruiter." A copy of Receiver's Initial Disclosures is attached as Exhibit B.

10. On November 27, 2018, when counsel requested a copy of Adams' statements, Receiver indicated she only had a transcript of the Adams interview. Receiver said we could get a copy of the interview from the Clerk's office since it was introduced as an exhibit at Adams' sentencing hearing. At the same time, Receiver indicated statements of victims should be sought from Government.

11. As a consequent of the inability to get access to these statements generally described in Receiver's Initial Disclosures and those exhibits introduced at Adams' sentencing hearing, McHenry's evaluation of this evidence and information as well as ability to formulate a response to Receiver's Motion for Summary Judgment has been significantly impeded.

12. Bill McHenry and his counsel are mindful of confidentiality protocol and will withhold use of the of the name or identifying information such as address, phone number or social security number of any investor. At the same time, it is imperative Bill McHenry be given access to the Adams interview, the other exhibits introduced at Adams' sentencing and the additional statements referenced in Receiver's disclosures.

### **III. WAIVER OF MEMORANDUM OF LAW**

13. Since this motion does not involve legal issues, Bill McHenry requests the provision for filing a memorandum of law be waived.

### **IV. RELIEF**

For reasons set out above, Bill McHenry respectfully requests that this Court grant a 14 day extension from December 6, 2018 to December 20, 2018, to file a Response to Receiver's Motion for Summary Judgment.

Second, Bill McHenry requests the Court to advise the Clerk's office that it may provide copies of all exhibits from the Lamar Adams sentencing hearing being Government Exhibits G1 through G6 and Defendant Exhibits D-1 through D-6, to Frank W. Trapp and the Phelps Dunbar LLP law firm, counsel for Bill McHenry.

THIS the 5th day of December, 2018.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ Frank W. Trapp

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ATTORNEY FOR WILLIAM B. MCHENRY  
AND FIRST SOUTH INVESTMENTS, LLC

**CERTIFICATE OF SERVICE**

I certify that I have this day filed this documents with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

This the 5th day of December, 2018.

/s/ Frank W. Trapp  
FRANK W. TRAPP

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:18cr00088CWR-LRA-1

ARTHUR LAMAR ADAMS

SENTENCING HEARING  
VOLUME 1

BEFORE THE HONORABLE CARLTON W. REEVES  
UNITED STATES DISTRICT JUDGE  
OCTOBER 29, 2018  
JACKSON, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT: MR. DAVID H. FULCHER

FOR THE DEFENDANT: MR. JOHN M. COLETTE  
MR. SHERWOOD A. COLETTE

REPORTED BY: CHERIE GALLASPY BOND  
Registered Merit Reporter  
Mississippi CSR #1012

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501 E. Court Street, Ste. 2.500  
Jackson, Mississippi 39201  
(601) 608-4186



1 A Correct.

2 MR. COLETTE: Judge, at this time, I have no problem  
3 moving Government's Exhibit 2 into evidence.

4 MR. FULCHER: Your Honor, I have six exhibits,  
5 actually, I'd like to move into evidence. I don't think  
6 Mr. Colette has any objection to all six of them. At this  
7 time, I can go ahead and --

8 THE COURT: Will they be -- okay. Tell me what  
9 numbers. G-what?

10 MR. FULCHER: Your Honor, I have Government's Exhibit  
11 1, which is the redacted transcript interview of Arthur Lamar  
12 Adams from April 19, 2018. Exhibit 2 is the summary of  
13 investor losses, April 1, 2018 to April 30, 2018. It's the  
14 two-page document that is in front of the witness now. Third,  
15 I have a redacted spreadsheet of investor losses, April 1st,  
16 2018 -- it should say 2017 on both of these. It does on the  
17 actual document. April 1, 2017 to April 30th, 2018. Then I  
18 have Exhibit 4 is a link analysis of cash flow of Lamar Adams  
19 and Madison Timber Properties for that one-year period.  
20 Exhibit 5 is a link analysis of expenditures of Lamar Adams,  
21 April 1, 2017 to April 30, 2018. And then, finally, Exhibit 6  
22 is -- consists of photographs of counterfeit stamps used by  
23 Lamar Adams to create fraudulent documents.

24 THE COURT: Okay. G-1 through 6 will be received into  
25 evidence.



1 MR. FULCHER: I've provided copies of all of these to  
2 counsel prior to this hearing, and I have a copy for the court  
3 clerk and also have a copy for Your Honor.

4 THE COURT: Okay.

5 MR. FULCHER: If I may approach.

6 THE COURT: You may.

7 (Exhibits G-1 through G-6 marked).

8 MR. FULCHER: Your Honor, 1 through 6 has been  
9 received?

10 THE COURT: G-1 through 6 are received into evidence.

11 MR. FULCHER: Thank you, Your Honor. For the record,  
12 I have already redacted each of these consistent with the local  
13 rules, so they are compliant.

14 THE COURT: Okay. Thank you.

15 BY MR. COLETTE:

16 Q Mr. Adams, the government has prepared a chart and those  
17 stamps, but let me ask you something and see if we can clear  
18 something up. Not that I believe everything I read in the  
19 paper, but did you invest -- did you give Ole Miss \$400,000?

20 A No, sir, I gave them partial of that. There were seven  
21 groups of us that were -- that made that contribution. It just  
22 had to be registered in one person's name, so it was registered  
23 in mine.

24 Q So you and a group of seven other people contributed to  
25 whatever programs that totaled that amount that was in the

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ALYSSON MILLS, IN HER CAPACITY  
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PROPERTIES, LLC,

Plaintiff,

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MICHAEL D. BILLINGS and  
MDB GROUP, LLC;  
TERRY WAYNE KELLY, JR. and  
KELLY MANAGEMENT, LLC;  
and WILLIAM B. MCHENRY, JR. and  
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*Arthur Lamar Adams and Madison*  
*Timber Properties, LLC*

Hon. Carlton W. Reeves, District Judge

**THE RECEIVER'S INITIAL DISCLOSURES**

Plaintiff Alysson Mills, in her capacity as the court-appointed receiver (the "Receiver") for Arthur Lamar Adams ("Adams") and Madison Timber Properties, LLC ("Madison Timber"), through undersigned counsel, respectfully submits these initial disclosures in accordance with Rule 26(a) of the Federal Rules of Civil Procedure.

A. The Receiver believes that the following individuals likely have discoverable information that she may use to support her claims in this matter:

1. Arthur Lamar Adams – owner and manager of Madison Timber
2. Terry Wayne Kelly – recruiter for Madison Timber
3. Michael Billings – recruiter for Madison Timber
4. William McHenry – recruiter for Madison Timber



5. Michael Billings's Madison Timber investors – knowledgeable about sales for which Billings received commissions
6. William McHenry's Madison Timber investors – knowledgeable about sales for which McHenry received commissions
7. Frank Zito – recruiter of one Madison Timber investor; investor in Madison Timber; introduced Adams to Butler Snow and Billings
8. Grace Fuller – accountant for Madison Timber; familiar with Madison Timber's books and records
9. Les Alexander – forensic accountant for the Receiver – expert witness for the Receiver
10. Alysson Mills – Receiver

B. The Receiver believes the following categories of documents in her possession, custody or control may be used to support her claims in this case:

1. Accounting records of Madison Timber
2. Bank statements of Madison Timber
3. Accounting records of First South Investments
4. Bank statements for MDB Group, LLC
5. Emails to/from Michael Billings received from Wayne Kelly, Lamar Adams, and Butler Snow
6. Loose files produced by William McHenry
7. Statements by Lamar Adams
8. Statements by any investor for whom Billings or McHenry was the recruiter

The Receiver reserves the right to amend these responses if the parties conduct discovery.

C. Damages

The Receiver seeks \$3,513,780 from Michael Billings and \$3,473,320 from William McHenry, as stated in her complaint. These numbers reflect commissions received by Michael Billings and William McHenry from the proceeds of the Madison Timber Ponzi scheme.

November 13, 2018

Respectfully submitted,

*/s/ Lilli Evans Bass*

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*/s/ Jason W. Burge*

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*Receiver's counsel*

**CERTIFICATE OF SERVICE**

I certify that I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of filing to all counsel of record.

In addition, I have separately emailed a copy of the foregoing to:

Andy Taggart  
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*Counsel for Terry Wayne Kelly, Jr. and Kelly Management, LLC*

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*Counsel for William B. McHenry, Jr. and First South Investments, LLC*

Date: November 13, 2018

/s/ Jason W. Burge

Admitted *pro hac vice*