

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**ARTHUR LAMAR ADAMS AND
MADISON TIMBER PROPERTIES, LLC,**

Defendants,

Case No.

3:18-cv-252-CWR-FKB

**SEC'S RESPONSE TO MOTION
FOR DECLARATION OF RIGHTS**

Plaintiff Securities and Exchange Commission ("SEC") files this Response to the Motion for Declaration of Rights Regarding Authority of Receiver to Pursue Certain Claims filed by Jeanne Lehan, on behalf of the beneficiaries of the Jeanne M. Lehan Trust, and Pamela Lehan-Siegel, on behalf of the beneficiaries of the Pamela Lehan-Siegel Trust (collectively, the "Lehan Parties"). [Docket 79]. The SEC agrees with the Receiver [Docket 84] that the Court has the authority to stay the litigation filed by the Lehan Parties against Pinnacle Trust Company LLC ("Pinnacle Trust"), at least until the Receiver has determined whether it has any

viable claims against Pinnacle Trust. *See, e.g., S.E.C. v. Stanford Intern. Bank Ltd.*, 424 Fed. App'x 338, 340 (5th Cir. 2011).

The Lehan Parties argue that the Receiver's claims against third parties are limited to claims for receipt of recruitment fees and kickbacks. Docket 79 at 4. But the receiver has standing to assert any claims that Madison Timber might have against Pinnacle Trust. *SEC v. Stanford Int'l. Bank*, 2017 WL 9989250 at * 4 (S.D. Tex. Aug. 23, 2017) (citation omitted). Those claims are not limited to receipt of recruitment fees and kickbacks. *See, e.g., Official Stanford Inv'rs Comm. v. Greenberg Traurig, LLP*, No. 3:12-CV-4641-N, 2014 WL 12572881, at *4 (N.D. Tex. Dec. 17, 2014) ("Receiver may assert tort claims against third parties based on allegations that the third parties' torts contributed to the liabilities of the Receivership Estate."); *SEC v. Cook*, 2001 WL 256172 at * 2 (SD Tex. Mar 8, 2001) ("[A] receiver represents not only the entity in receivership, but also the interests of its creditors.")

The Lehan Parties also claim that the Receiver has no standing to assert the type of claims against Pinnacle Trust that they have asserted. But the Lehan Parties acknowledge that their claims are predicated on impermissible loans that Pinnacle Trust caused Foxglove to make to Madison Timber. Dkt 80 at 9. The Receiver may also have claims against Pinnacle based on those loans to Madison Timber, including, but not limited to, fraudulent inducement and /or negligence.

For the reasons stated herein, and in the Receiver's response, the Court should deny the Lehan Parties' motion.

Dated this 28th day of January, 2019.

Respectfully submitted,

s/ M. Graham Loomis

M. Graham Loomis
Regional Trial Counsel
Georgia Bar No. 457868
Tel: (404) 842-7622
Email: loomism@sec.gov

W. Shawn Murnahan
Senior Trial Counsel
Georgia Bar No. 529940
Tel: (404) 842-7669
Email: murnahanw@sec.gov

Justin Delfino
Senior Counsel
Georgia Bar No. 570206
Tel: (404) 942-0698
Email: delfinoj@sec.gov

COUNSEL FOR PLAINTIFF
Securities and Exchange Commission
Atlanta Regional Office
950 East Paces Ferry Road, N.E., Suite 900
Atlanta, GA 30326-1382
Tel (main): (404) 842-7600
Fax: (404) 842-7666

OF COUNSEL

D. Michael Hurst, Jr.
United States Attorney

s/Kristi H. Johnson
Kristi H. Johnson
Assistant United States Attorney
MS Bar No. 102891

Marc Perez
Assistant United States Attorney
WA Bar No. 33907

Civil Division
United States Attorney's Office
Southern District of Mississippi
501 East Court Street, Suite 4-430
Jackson, MS 39201
Tel: (601) 973-2887
Fax: (601) 965-4409

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CERTIFICATE OF SERVICE

I hereby certify that on this day, I filed the foregoing SEC's Response in Opposition to Motion Seeking Return of Receivership Funds via the Court's ECF system, which will provide copies to all counsel of record.

Dated this 28th day of January, 2019.

Respectfully submitted,

s/ M. Graham Loomis
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