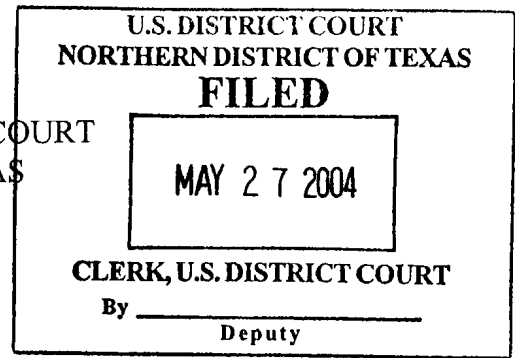


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

VS.

FUNDING RESOURCE GROUP
a/k/a FRG TRUST, ET AL.

Defendants.

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NO. 3-98-CV-2689-M

**FINDINGS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

Michael J. Quilling, as Receiver for Hammersmith Trust, L.L.C. and related entities, has filed a statement of allowed claims and objections to claims made against the Hammersmith Trust Estate. The objections have been referred to U.S. Magistrate Judge Jeff Kaplan for recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and a standing order of reference dated June 16, 2000.

I.

This is a civil action brought by the SEC against 16 defendants and 13 equity relief defendants arising out of the sale of non-existent "prime bank" securities. The SEC alleges that defendants raised more than \$14 million from unwitting investors by making false representations about the use and safety of investor proceeds and the expected rate of return on their investments. This conduct, if proved, constitutes a violation of the federal securities laws.¹

¹ The SEC alleges violations of Sections 5(a), (c) & 17(a) of the Securities Act of 1933, 15 U.S.C. §§ 77e(a), (c) & 77q(a), Section 10(b) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78j(b), and Securities and Exchange Commission Rule 10b-5, 17 C.F.R. § 240.10b-5. (Plf. Third Am. Compl. ¶ 3).

Hammersmith Trust, L.L.C., Hammersmith Trust, Ltd., Bridgeport Alliance, L.L.C., Landfair Custodial Services, Inc., Microfund, L.L.C., American Pacific Bank and Trust, Inc., Eurofund Investment, B. David Gilliland, and Melody Rose (collectively referred to as "Hammersmith") are named defendants in this case. On January 21, 1999, Michael J. Quilling was appointed as Receiver for Hammersmith Trust, L.L.C. The order of appointment authorizes the Receiver to:

take custody, possession and control of all assets, monies, securities and properties, real and personal, tangible and intangible, of whatever kind and description and wherever situated, belonging to Hammersmith Trust, L.L.C. or in which Hammersmith Trust, L.L.C. has any interest whatsoever ("Receivership Assets"), as well as any documents relating to the Receivership Assets.

ORDER, 1/21/99 at 3. To date, the Receiver has recovered more than \$4.9 million in assets traceable to the Hammersmith entities.

The Receiver was previously ordered to send court-approved claim forms to all known and possible claimants of the Hammersmith Trust Estate.² These forms were to be completed and returned to the Receiver by March 31, 2001. *See* ORDER, 1/12/01. A total of 147 claims were filed. The Receiver allowed 68 claims and objected to all or part of 66 other claims. (Rec. St. of Allowed Claims, Exh. A; Rec. Obj. to Claims at 4-13, ¶¶ 6-13 & Exhs. A & B). Thirteen other potential claimants confirm they have no claim against the Estate. (Rec. Obj. to Claims at 3, ¶ 5). A hearing on the Receiver's objections was held on May 26, 2004. The Receiver notified all interested parties of this hearing by posting notice on his website. Aggrieved claimants were notified that a written

² By order dated March 12, 2001, the court authorized the Receiver to designate four receivership estates for purposes of handling claims and making distributions to defrauded investors. The four estates are: (1) Cord/Winterhawk; (2) Howe Financial Trust; (3) Funding Resource Group; and (4) Hammersmith Trust. *See* ORDER, 3/12/01. The court has already established procedures, ruled on objections, and approved the payment of claims relating to the Cord/Winterhawk Estate, the Howe Financial Trust Estate, and the Funding Resource Group Estate. *See* FINDINGS & REC. OF MAG. JUDGE, 5/9/01, *adopted as modified by* ORDER, 6/14/01 (Cord/Winterhawk Estate); FINDINGS & REC. OF MAG. JUDGE, 7/13/01, *adopted by* ORDER, 7/25/01 (Howe Financial Trust Estate); FINDINGS & REC. OF MAG. JUDGE, 1/31/02, *adopted as modified by* ORDER, 2/15/02 (Funding Resource Group Estate).

response to the objections must be filed by May 14, 2004. *See* ORDER, 4/23/04. Robert N. Koontz, Daniel Huba, Glenna Hockensmith, Susan Toadvine, and Debbie Butler timely filed responses protesting the Receiver's decision to reject all or part of their claims against the Estate.³ However, none of these claimants appeared at the hearing. After considering the evidence and the written submissions of the parties, the magistrate judge recommends as follows:

II.

The claims identified in Exhibit A attached hereto have been allowed by the Receiver and should be approved.

III.

The following potential claimants contacted the Receiver after receiving claim forms to confirm they have no claim against the Estate:

Jamal Al Samerai

Elizabeth Blackney

Joseph P. Grant

Elmar Haag

Interworld Pty. Ltd.

Jamar Enterprises, Inc.

Wood Roberts, LLC

Omer L. Rains

Reuven Saar

³ Ramsinh M. Tantod also objected to the disallowance of part of his \$921,000.00 claim. As a result of subsequent discussions between the parties, the Receiver has agreed to allow a claim to Tantod in the amount of \$650,000.00 and a second claim made by Tantod on behalf of Jodman, Inc. in the amount of \$271,500.00. (*See* Rec. Reply to Claim Obj. at 2, ¶ 3). In addition, the Receiver has agreed allowed claims of \$448,267.95 to Menno Wagler and \$90,000.00 to Richard P. Assaly. (*See id.* at 2, ¶ 4).

Judith M. Scott

John Christopher Swift

Grosvenor Ventures, Inc.

Norman Spivock

The court should determine that these potential claimants have no claim against the Hammersmith Trust Estate.

IV.

The Receiver has objected to all or part of the claims identified in Exhibit B attached hereto. No response to these objections has been received. Accordingly, the Receiver's objections should be sustained and the claims should be rejected in full, or approved in the amount recommended by the Receiver, as reflected in Exhibit B.

V.

The Receiver also objects to claims submitted by or on behalf of: (1) Robert N. Koontz in the amount of \$8,000; (2) Daniel Huba in the amount of \$7,535.00; (3) Glenna Hockensmith in the amount of \$5,000.00; (4) Susan Toadvine in the amount of \$5,000.00; and (5) Debbie Butler in the amount of \$23,000.00.⁴ Each claimant paid money to brokers, or aggregators, who forwarded the payments to Hammersmith in the name of the broker. When Hammersmith paid returns, or Ponzi payments, they were paid directly to the brokers. In many instances, these returns were either partially or never passed on to the individual investor. Koontz paid his investment to entities known

⁴ The Receiver also objects to a \$105,000.00 claim allegedly submitted by Charles Butler. (Rec. Obj. to Claims at 11-12, ¶ 10 & Exh. B). However, Butler has advised the court that the Receiver listed this claim "in error." (Butler Ltr., 5/12/04). According to Butler, the \$105,000.00 claim represents payments made by 10 other investors, all of whom have filed individual claims against the Hammersmith Trust Estate. Butler and his wife, Debbie, seek only the return of their \$23,000.00 investment. (*Id.*).

as Bythinia, Bachman Capital Partners, and Abesx Del Norte ("Bythinia Group"). Huba, Hockensmith, Toadvine, and Butler paid their investments to companies controlled by Alan Baker and Charles Butler, including Baycore Services, Ltd., Sterling Property Management, Scorpion Investments, Blue Harbor Management Group, and Phoenix Financial, Inc. ("Baker Companies"). The court will address the Receiver's objections to each group of investors.

A.

Koontz was one of many investors who sent money to the Bythinia Group. Based on his examination of the books and records, the Receiver has determined that Bythinia sent \$679,965.00 in aggregate payments to Hammersmith Trust. A total of \$650,130.00 was returned by Hammersmith to Bythinia, for a net loss of \$29,835.00. Therefore, each claimant who sent money to Bythinia for investment in Hammersmith should be given an allowed claim based on the pro rata portion of Bythinia's net loss. (*See* Rec. Obj. to Claim at 10-11, ¶ 8). The pro rata portion of Koontz's \$8,000 claim is \$367.07.

B.

Huba, Hockensmith, Toadvine, and Butler were among the investors who sent money to the Baker Companies for investment in Hammersmith Trust. The Receiver has determined that Baker and his related entities sent \$300,000.00 to Hammersmith and received \$585,000.00 back. Because Baker was repaid far more than his companies sent to Hammersmith, neither he nor his investors have a claim against the Hammersmith Trust Estate. Instead, these claimants must look to Baker for repayment. (*See id.*, at 11-12, ¶¶ 9-10).

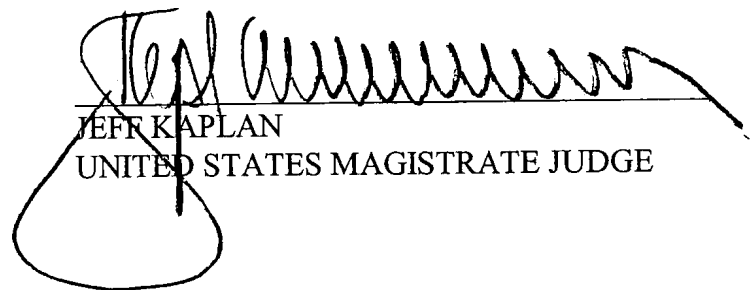
RECOMMENDATION

The court should approve the claims listed in Exhibit A and either reject, or approve as modified, the claims listed in Exhibit B to this recommendation. In addition, the court should

determine that the potential claimants identified in Paragraph II have no claim against the Hammersmith Trust Estate. Finally, the court should sustain the Receiver's objections to the claims of Robert N. Koontz, Daniel Huba, Glenna Hockensmith, Susan Toadvine, and Debbie Butler. Koontz should be given an allowed claim in the amount of \$367.07. The claims submitted by or on behalf of Huba, Hockensmith, Toadvine, and Butler should be rejected in their entirety.

The Receiver is ordered to post a copy of this report and recommendation on his website, www.secreceiver.com. Any claimant or interested party may file written objections to this recommendation by **June 11, 2004**. The failure to file written objections shall bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: May 27, 2004.



JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE

Exhibit "A"

1.	Mehrdad Amin	\$95,000.00
2.	Granite Holdings	\$1,754,000.00
3.	William Bacchi & Terri L Bacchi Revocable Trust	\$57,500.00
4.	Eddie M. Bacchi & Virginia Bachi 1991 Living Trust	\$57,500.00
5.	Byron W. Bacchi Irrevocable Trust	\$115,000.00
6.	Theodor Brinek	\$64,381.00
7.	Joseph Cardozo	\$95,000.00
8.	Vernon Carlson	\$99,461.00
9.	Olympus Pointe Investment Trust	\$720,000.00
10.	CEMA Trust	\$240,625.00
11.	Dominic Cusumano	\$123,750.00
12.	Peter Dyer and investors	\$1,400,000.00
13.	Southeastern Oklahoma Indian Credit Assoc.	\$830,500.00
14.	Dennis Hudson	\$184,751.00
15.	HY Asscoiates	\$466,667.00
16.	John Hillis Estate	\$933,333.00
17.	John Joseph McGarry	\$315,000.00
18.	Amal E. Moorad	\$137,500.00
19.	Marshall Olchoway	\$103,500.00
20.	John Papagni and Pamela Albion	\$42,496.00
21.	Elizabeth Holland Rachels	\$193,000.00

Exhibit "A" continued

22.	Gabriella & Seymour Scholnick	\$94,620.00
23.	Atlantic Star Investments	\$525,000.00
24.	JRT Family Trust c/o U.S. District Court, Eastern District of CA	\$620,000.00
25.	Jurgen Tagert-Stavenow	\$121,438.00
26.	Lee I. Turner	\$237,500.00
27.	Sterling Management Services, Inc. ¹	\$8,349,676.00
28.	Donald Duane Rose	\$131,875.00
29.	Kim Zuber	\$95,000.00
30.	The John Varga Revocable Trust William Becker Trustee	\$50,000.00
31.	Alvin Perry APC DBPP	\$100,000.00
32.	Robert Schmidt	\$50,000.00
33.	Bo Ewert Linne	\$270,000.00
34.	Bo Ewert Linne	\$960,000.00
35.	Bo Ewert Linne	\$506,000.00
36.	Jo Ann Temple	\$38,000.00
37.	Connie Boothe	\$21,262.00
38.	Aaron Turner	\$21,262.00
39.	Lynn Dysart Cashwell	\$17,000.00

¹On May 22, 2002, Michael J. Quilling was appointed as Receiver for this entity by the United States District Court for the Western District of North Carolina. The Receiver had agreed to this claim long before his appointment as receiver in North Carolina. The Receiver will present evidence at the time of the hearing as to the propriety of the claim.

Exhibit "A" continued

40.	Lynn Dysart Cashwell	\$11,036.00
41.	Linda Turner Dysart	\$26,710.00
42.	George R. Fairman	\$16,711.00
43.	Michael Carl Manley	\$54,018.00
44.	Michael Mitchell	\$100,000.00
45.	Joseph Romanow	\$694,618.00
46.	Norman Spahr	\$52,000.00
47.	Jo Ann Temple	\$100,000.00
48.	Southstar I	\$100,000.00
49.	Southstar I	\$152,827.71
50.	Donna Walker	\$29,062.50
51.	Sarah Johnson	\$29,062.50
52.	John K. McAllister	\$1,370.00
53.	John K. McAllister	\$1,644.00
54.	Peter Wolk	\$96,061.57
55.	Sercom One, Ltd.	\$984,220.00
56.	Andrew J. Glenn, III	\$118,750.00
57.	Jodman, Inc.	\$280,000.00
58.	Jodman, Inc.	\$271,500.00
59.	Arun Kumar Dosaj	\$166,950.00
60.	Idora L. Eldred	\$100,000.00

Exhibit "A" continued

61.	Neal Stevens	\$261,000.00
62.	David and Valerie Romanow	\$1,010,402.00
63.	Michael De Prince	\$211,500.00
64.	Richard Assaly	\$90,000.00
65.	Menno Wagler	\$448,267.95
66.	Ramsinh Tantod	\$650,000.00
67.	Leif Rosengaard	\$154,000.00
68.	Claudio Antonini	\$74,637.50
	TOTAL	\$26,523,945.73

	First Name	Last Name	Entity	Claim Amount	Proposed Allowed Claim
1	Dennie	Anderson		\$ 63,750.00	\$ -
2	Henry	Back		\$ 37,536,911.00	\$ 430,000.00
3	Ellis	Barnes		\$ 2,350.00	\$ 107.83
4	Marvin	Bates		\$ 4,500.00	\$ -
5	Marvin	Bates		\$ 15,000.00	\$ -
6	Chad	Bayer		\$ 5,000.00	\$ -
7	Elaine	Boiko		\$ 100,000.00	\$ 70,000.00
8	David	Bushill		\$ 188,423.85	\$ -
9	Joseph	Cardoza		\$ 100,000.00	\$ -
10	William	Cox		\$ 41,333.47	\$ 1,896.56
11	Paul	Deemert		\$ 35,715.85	\$ -
12	Jack	Deemert		\$ 35,713.08	\$ -
13	Regina	Drennen		\$ 11,240.00	\$ 515.74
14	Bradley	Farmer		\$ 7,637.00	\$ 350.42
15	David	Gibson	Custodian Escrow Corp.	\$ 637,000.00	\$ -
16	Robert	Gilmore		\$ 300,000.00	\$ 255,000.00
17	John Joseph	Graden		\$ 300,000.00	\$ -
18	Wanda	Gurski		\$ 36,000.00	\$ 1,651.84
19	Stephen	Guy		\$ 35,500.00	\$ 1,628.89
20	Janalee	Hawkins		\$ 85,000.00	\$ 45,000.00
21	Joe	Hensley		\$ 15,000.00	\$ 688.28
22	Humberto	Hodgson		unknown	\$ -
23	Evelyn	Jarrard		\$ 958.15	\$ 43.96
24	Bill	Jennings		\$ 210,290.00	\$ 9,649.01
25	William	Jones		\$ 13,500.00	\$ 619.44
26	Aydin	Kaplan	Petrolkent	unknown	\$ -
27	Christopher	Kazana	ACTS, Ltd.	\$ 400,000.00	\$ -
28	Henry	Kelsey		unknown	\$ -
29	Dave	Kwok	Treaty Developments	\$ 489,000.00	\$ -
30	Baxter	Laporte		\$ 50,000.00	\$ -
31	Billy	Lawson		\$ 6,219.88	\$ 285.39
32	Dinah	Lawson		\$ 5,000.00	\$ 229.42
33	Cecil	Light		\$ 20,000.00	\$ 917.69
34	Pat	Logue		\$ 37,400.00	\$ -
35	Donnie	Marshall		\$ 50,000.00	\$ 2,294.22
36	Terry	Martin		\$ 35,000.00	\$ -
37	Jeffrey	Matz		\$ 2,900,000.00	\$ -
38	Richard	McFarland		\$ 26,762.06	\$ 1,227.96
39	Harold	Miller	Dilaver Holdings	\$ 100,000.00	\$ 80,000.00
40	John and Jeffrey	Morris and Saxon		\$ 429,000.00	\$ -
41	Kenneth	Morris and Saxon		\$ 37,475.00	\$ -
42	Ronald and Lyndi	Olesen		\$ 24,000.00	\$ -
43	Robert	Page		\$ 32,000.00	\$ 1,468.30
44	Bill	Porter		\$ 200,000.00	\$ -
45	Jay and Linda	Reid		\$ 5,000.00	\$ -
46	Ronald	Schauss		\$ 10,000.00	\$ -
47	Adrian	Schepps		\$ 238,000.00	\$ -
48	Donald	Shank		unknown	\$ -
49	Barry	Siskind		\$ 500,000.00	\$ 374,242.05
50	Franklin	Spivey		\$ 60,431.76	\$ 2,772.87
51	Virgil	Strickland		\$ 79,000.00	\$ -
52	Judy	Tate		\$ 13,000.00	\$ 596.50
53	Ira	Taylor		\$ 35,000.00	\$ 1,605.95

Exhibit "B"

	First Name	Last Name	Entity	Claim Amount	Proposed Allowed Claim
54	Iris	Ward		\$ 20,000.00	\$ 917.69
55	Dennis	Wilkening		\$ 40,000.00	\$ -
56	Shirley	Windbigler		\$ 5,000.00	\$ -
57	Reginald	Wulff		\$ 5,000.00	\$ -
58	Ronald	Yates	WWST, Ltd.	\$ 450,000.00	\$ -
59	Paul	Zhernakov	Free Trade Bureau	\$ 250,000.00	\$ 120,500.00
60			Fab 5	unknown	\$ -
Total				\$ 46,333,111.10	\$ 1,404,209.98

Exhibit "B"