

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
vs.	:	
	:	1:06-CV-1171-CC
GEOFFREY A. GISH, et al.,	:	
	:	
Defendants.	:	

ORDER

This matter is before the Court on Plaintiff Securities and Exchange Commission’s Motion for Re-appointment of Receiver [Doc. No. 45] and Securities and Exchange Commission’s Motion to Strike Geoffrey Gish’s Pro Se Opposition to Motion to Re-appoint Receiver [Doc. No. 49]. For the reasons stated below, both motions are granted.

On November 7, 2006, Plaintiff Securities and Exchange Commission (the “SEC”) filed a motion seeking the reappointment of Thomas S. Richey as Receiver for Weston Rutledge Financial Services, Inc.; Zamindari Capital, LLC; Lexington International Fund, LLC, a/k/a Lexington International Fund, Inc.; and Oxford Adams Capital, LLC (the “Receivership Companies”). Mr. Richey has served as Receiver for the Receivership Companies since the inception of this litigation, in May 2006. The SEC’s motion sets forth Mr. Richey’s extensive experience and qualifications to serve as Receiver.

On November 21, 2006, Defendant Geoffrey A. Gish filed pro se a document entitled “Opposition to Motion to Re-appoint Receiver” [Doc. No. 48]. In this opposition, Mr. Gish disputes the Receiver’s conclusion that the Receivership Companies are insolvent and argues that the assets of the Receivership Companies exceed the liabilities to investors. Mr. Gish alleges that the Receiver has refused to

pursue claims against unspecified third parties, who allegedly possess funds belonging to investors, and that the Receiver has failed to act in the best interest of the investors (1) by pursuing claims against employees and principals of the Receivership Companies (presumably including Mr. Gish himself) instead of against third parties, (2) by replacing employees of the Receivership Companies, (3) by refusing the assistance of those employees with knowledge of the Receivership Companies, (4) by sending unspecified documents to the wrong location, (5) by employing attorneys to perform administrative tasks, (6) by giving investors false or misleading information, and (7) by delays associated with the establishment of a website. Mr. Gish further claims that all investors have not been informed about how to file proof of claims and that the Receiver improperly disposed of certain personal property. Mr. Gish finally questions the Receiver's background in accounting and finance and alleges that potential conflicts of interest support denying the SEC's motion

On November 29, 2006, the SEC filed a motion to strike Mr. Gish's opposition on the grounds that Mr. Gish was represented by counsel at the time he filed the pro se opposition. The SEC asserts that Mr. Gish's filing violates Local Rule 83.1D(2), which provides that when a party has appeared by counsel in an action, that party "may not thereafter appear or act in the party's own behalf in the action or proceeding or take any step therein unless the party has first given notice of the party's intention to the attorney of record and to the opposing party and has obtained an order of substitution from the court." The record reflects that, at the time the opposition was filed, Mr. Gish was represented by counsel. The Court notes that Mr. Gish's counsel filed a motion to withdraw on November 3, 2006; however, the Court had not yet granted the motion to withdraw at the time the opposition was filed. Further, the SEC states that Mr. Gish did not provide notice

of his intention to proceed pro se, and the Court had not entered an order of substitution. Accordingly, the opposition was filed in violation of Local Rule 83.1D(2) and is due to be stricken. The SEC's motion to strike is **GRANTED**.

Moreover, even if the Court were required to consider Mr. Gish's opposition, the Court is unpersuaded by his arguments. While Mr. Gish makes significant accusations regarding the conduct of the Receiver in this case, Mr. Gish provides no support for those allegations and, indeed, does not offer any details of the allegedly improper conduct. This Court appointed the Receiver in May 2006 and directed the Receiver to preserve and protect the assets of the Receivership Companies for the benefit of the creditors and investors. The record reflects that the Receiver has engaged in significant efforts to that end, and the Receiver continues to work towards identifying and tracing investor funds. According to the SEC, the Receiver has identified third parties against whom he may pursue claims on behalf of the investors, including (1) Zahra Ghods, Rusa Cap, Inc., and Unisource Cap, LLC; (2) Majestic Capital Management; (3) R. Drew Abbott and Charles Lewis Abbott; and (4) Champion Partners and Steven P. Arena. The law provides that the Receiver may file claims in this Court against nonresident defendants if, within ten days of the order appointing him as the Receiver, he files the Order of appointment and the Complaint in this proceeding in those districts where the nonresident defendants reside. See 28 U.S.C. § 754. If this Court enters an Order reappointing the Receiver, this ten-day period will begin anew.¹ The Court finds that such relief is plainly

¹ As the SEC recognizes, the opposition filed by Mr. Gish faults the Receiver for failing to pursue claims against third parties. This Order will permit the Receiver to pursue those claims in an efficient manner.

warranted in this case.² The SEC's motion to reappoint Mr. Richey is **GRANTED**.

SO ORDERED this 16th day of April, 2007.

s/ CLARENCE COOPER

CLARENCE COOPER
UNITED STATES DISTRICT JUDGE

² The Receiver and the SEC both note that, even if the Court denies the SEC's motion, the Receiver will remain in office. The purpose of the Reappointment, as stated by the Receiver, is to enable the Receiver to pursue claims against third parties.