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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

VESCOR CAPITAL CORP., a Nevada corporation,
VESCOR CAPITAL, INC., a Nevada corporation,
VESCORP CAPITAL, LLC, a Nevada limited liability
company, VESCORP CAPITAL IV-A, LLC, a Nevada
limited liability company, VESCORP CAPITAL IV-M,
LLC, a Nevada limited liability company, a Nevada limited
liability company, and VAL E. SOUTHWICK,

DEFENDANTS.

**MEMORANDUM OF
POINTS AND
AUTHORITIES IN
SUPPORT OF MOTION TO
APPOINT A RECEIVER**

Civil No. 1:08cv00012

Judge Dee Benson

Plaintiff, Securities and Exchange Commission (the “Commission”), by and through its counsel of record, respectfully requests, subject to further order of this Court, that this Court enter an order appointing a receiver as set forth in greater detail in the accompanying Motion and below. In support thereof, the Commission states as follows.

STATEMENT OF FACTS

1. On February 6, 2008, the Commission instituted the above-captioned enforcement action, alleging that individual Defendant Val E. Southwick (“Southwick”),

through dozens of corporations, was involved in the fraudulent offer and sale of unregistered securities and, in so doing, violated the Securities Act of 1933 (the “Securities Act”) and the Securities Exchange Act of 1934 (the “Exchange Act”).
Complaint at ¶ 1.

2. On February 6, 2008, counsel for defendants, signed an Acceptance of Service of the Complaint, Civil Cover Sheet and Summonses for Southwick and the above-captioned entities.

3. The Court entered a Final Judgment of Injunction against Southwick on February 26, 2008.

4. The Court heard the Commission’s Motion for a Stay of Litigation on April 11, 2008. After hearing argument of counsel on that Motion, the Court denied the Commission’s Motion for Stay of Litigation, but made findings on the record that the appointment of a receiver would be appropriate under the circumstances of this case. Minute Order, Docket # 21.

5. Counsel for the defendants has indicated to the Commission’s counsel that he will consent to the appointment of a receiver.

6. Absent the appointment of a receiver, creditors and/or investors may continue or commence litigation against or attempt to collect claims against Southwick and/or his entities. This piecemeal litigation may diminish the assets available for distribution to investors, creditors or others with claims against Southwick and the numerous entities. There is also the possibility that the defendants may distribute the assets in a manner that is other than fair and equitable to all investors.

7. The Commission recommends that Robert G. Wing of the firm of Prince, Yeates and Geldzahler be appointed the receiver. This determination was based on: (1) the rates his firm quoted for the work, (2) the fact that Prince, Yeates & Geldzahler had no conflicts in the matter, (3) the firm’s bankruptcy experience, and (4) Mr. Wing’s prior receivership experience in cases brought by the Commission.

ARGUMENT

The Court has broad discretion to appoint an equity receiver in Commission enforcement actions. SEC v. Wencke, 622 F.2d 1362, 1365 (9th Cir. 1980). A receiver plays a crucial role in preventing further dissipation and misappropriation of investors' assets. SEC v. Wencke, 783 F.2d at 836-37 n.9. Factors such as the likelihood of future losses of investor funds are critical in determining whether a receiver should be appointed. See SEC v. Fifth Ave. Coach Lines, Inc., 289 F. Supp. 3, 42-3 (S.D.N.Y. 1968), Aff'd, 435 F.2d 510 2d Cir. 1970).

The Commission believes that investors will be well-served by the appointment of a receiver. Vescor's current management committed a complicated, egregious fraud; therefore, current management should not continue to have control over what remains of investor proceeds. Vescor also owns real property in at least four states and may hold options or other real property interests in other states. In addition, a receiver should be appointed over any other entity directly or indirectly controlled by Southwick that can be shown to have received investor funds. Consequently, a receiver is needed to ensure that the distribution of those assets is accomplished equitably, orderly, and promptly. There is also the risk that investors and other creditors who have the means to litigate or collect judgments may be able to obtain an advantage over other investors similarly situated. A receiver will assure a more equitable distribution of assets. Accordingly, the receiver's role will largely consist of bookkeeping, asset recovery, asset distribution, and administering the assets in a manner calculated to yield the best possible recovery for all investors.

Based on the foregoing, the Commission respectfully submits that this Court has the power to issue the stay requested herein and that the stay is necessary to allow the Commission to prepare an accounting, to evaluate Southwick's assets and to determine whether the appointment of a receiver or other relief is necessary and appropriate. Accordingly, the Commission requests the Court to enter the stay requested herein.

CONCLUSION

For the reasons set forth above, the Commission respectfully requests this Court appoint Robert G. Wing as the Receiver of the Defendants and related entities.

Dated this 2nd day of May 2008.

Respectfully submitted,

/s/ Thomas M. Melton_____

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