

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-cv-60082-DIMITROULEAS/SNOW

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

FREDERIC ELM f/k/a FREDERIC ELMALEH,
et al.,

Defendants,

and

AMANDA ELM f/k/a AMANDA ELMALEH,

Relief Defendant.

FIRST REPORT OF RECEIVER GRISEL ALONSO, ESQ.

Grisel Alonso, Esq., not individually, but solely in her capacity as the Court-appointed receiver (“Receiver”) for Elm Tree Investment Advisors, LLC (“ETIA”), Elm Tree Investment Fund LP, Elm Tree "e"conomy Fund LP, and Elm Tree Motion Opportunity LP (collectively, the Receivership Entities”), respectfully submits her first report (the “Report”) on her activities and findings to date, as well as her initial recommendations for administration of the receivership estate (the “Receivership Estate”).

Due to the volume and nature of the information gathered to date, the short amount of time between receipt of the information and the filing of this Report, the complexity of the matters analyzed, and the need for significant additional information, this Report is preliminary. As discussed further below, although the Receiver and her

BROAD and CASSEL

One Biscayne Tower, 21st Floor 2 South Biscayne Blvd. Miami, Florida 33131-1811 305.373.9400

professionals have made significant progress in a short period of time, a great deal of work remains to be done in this case.

I. INTRODUCTION

On January 15, 2015, the United States Securities and Exchange Commission ("SEC") filed its complaint and emergency motion for temporary restraining order ("SEC Action") against Frederic Elm ("Elm"), Relief Defendant Amanda Elm ("Mrs. Elm"), and the Receivership Entities (collectively, "Defendants"), alleging that the Defendants had engaged, and were engaging in, a scheme to defraud investors and violate the federal securities laws. [D.E. 1]. In the SEC Action, the SEC sought, among other relief, entry of a temporary restraining order and a preliminary injunction. After reviewing the SEC's submission, on January 16, 2015, the Court entered an Order freezing the Defendants' assets (the "TRO"). [D.E. 14].

On January 16, 2015, the Court also entered an order appointing Ms. Alonso as the Receiver over the Receivership Entities (the "Receivership Order"). [D.E. 13]. Pursuant to the Receivership Order, the Receiver is obligated to, among other things, take possession of all of the Receivership Entities' property and assets, investigate the manner in which the affairs of the Defendants were conducted, and take actions for the benefit and on behalf of the Defendants and their investors. In order to assist the Receiver in her efforts to recover and take control of the Receivership Entities' assets for the benefit of its defrauded investors, the Receivership Order provides that the Receiver shall, among other things:

Take immediate possession of all property, assets and estates of every kind of ETI and the Elm Tree Funds, whatsoever and wherever located belonging to or in the possession of ETIA and the Elm Tree Funds, including but

not limited to all offices maintained by ETIA and the Elm Tree Funds, rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of ETIA and the Elm Tree Funds, wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order. . .

...

Investigate the manner in which the affairs of ETIA and the Elm Tree Funds were conducted and institute such actions and legal proceedings, for the benefit and on behalf of ETIA and the Elm Tree Funds, and their investors and other creditors, as the Receiver deems necessary against those individuals, corporations, partnerships, associations and/or unincorporated organizations, which the Receiver may claim have wrongfully, illegally or otherwise improperly misappropriated or transferred monies or other proceeds directly or indirectly traceable from investors in ETIA and the Elm Tree Fund . . .

[D.E. 13 at ¶¶ 1-2].

On January 28, 2015, both the Elms and the Receiver, on behalf of the Receivership Entities agreed, to the entry of a preliminary injunction continuing the terms of the TRO as to the Elms and the Receivership Entities, except as it relates to the Receiver's ability to perform her Court ordered duties under the Receivership Order [D.E. 13].¹ This Report summarizes the Receiver's activities and those of her retained professionals from her date of appointment through March 13, 2015.

¹ The Preliminary Injunction as to the Elms allowed them to use certain specified funds to pay designated expenses for the Elm residence. [D.E. 23].

**II. BACKGROUND, ASSET IDENTIFICATION AND MITIGATION
OF FURTHER LOSSES**

A. Pre-Planning

Prior to the filing of the instant case, the Receiver conducted preliminary research on the Receivership Entities as well as Elm and Mrs. Elm. Through her investigation, the Receiver learned that the Receivership Entities purported to maintain their principal place of business at 401 E. Las Olas Blvd., Suite 1400, Ft. Lauderdale, Florida, which was a "virtual office" maintained at a location managed by Carr Workplaces ("Carr").

The Receiver and her professionals further researched, among other things, real property, business interests, and foreign fraud charges against Elm.

Consistent with the terms of the Receivership Order, the Receiver retained the law firm of Broad and Cassel to serve as the Receiver's counsel. The Court entered an order approving that retention on January 22, 2015. [D.E. 16].

B. Immediate Actions Following Entry of TRO and Receivership Orders

On January 16, 2015 at approximately 5:00 p.m., SEC Counsel contacted the Receiver advising that she had been appointed in the case. The Receiver immediately contacted her staff and counsel to meet and coordinate to inspect the corporate offices and secure the Receivership Entities' books, records, and bank accounts. As a precaution, the Receiver and her professionals contacted law enforcement for assistance, if necessary. As expected, it was confirmed that the actual corporate office was located at Elm's residence at 2533 NE 26th Ave., Fort Lauderdale, Florida. Receiver's counsel coordinated with Elm's counsel to gain access to Elm's residence.

By agreement with Elm's counsel David Chase, Esq., the Receiver and her professionals arrived at 9:00 p.m. at Elm's residence and met Mr. Chase, Chris Bruno, Esq., and Elm. The Receiver and her professionals were given access to a designated office within the Elm residence and conducted a search of the entire office. The Receiver and her professionals secured and removed business records from the office (approximately 6 boxes of records) and completed chain of custody forms. The Receiver also secured and removed one (1) desktop computer, as well as a new boxed laptop computer. The Receiver also obtained from Elm, through his counsel, domain, user name, and password information for websites related to the Receivership Entities and all disclosed bank, brokerage, and debit accounts, including two (2) Wells Fargo debit cards.

Counsel for the Elms indicated that night that he had additional documents that were required to be turned over to the Receiver in accordance with the Receivership Order. Accordingly, at 11:00 p.m., the Receiver and her counsel arrived at David Chase, Esq.'s offices to secure and retrieve additional business records, bank statements, and brokerage account statements, totaling approximately another 2 boxes of records.

C. Control of Accounts, U.S. Mail, Electronic Mail, Package and Telephones

The Receiver immediately changed the passwords and security protocols on the Receivership Entities' bank accounts and brokerage account. Members of the Receiver's Information Technology ("IT") team made a clone of the hard drive of the computer removed from the Elm residence. The IT team also copied the emails located at fred@elmtreeinvestment.com and began reviewing emails.

Copies of the Receivership Order were served upon all domain and hosting companies that were either provided to the Receiver or discovered through the Receiver's

investigation. The Receivership Order was also served upon all telephone providers. The Receiver and her counsel served Carr with copies of the TRO and Receivership Order and advised Carr to prohibit access to incoming mail and/or telephone calls to any of the Receivership Entities' insiders and to safeguard all incoming mail, packages or telephone messages. Ms. Micki Scavone, the General Manager of Carr, provided the Receiver with a copy the Virtual Office Contract which provided the Receivership Entities with a business address, mail forwarding service and one dedicated telephone number answered in ETIA'S name with dedicated voicemail.

Based on an interview with Ms. Scavone, the Receiver was advised that a limited amount of mail and telephone calls were received at Carr. Elm picked up mail infrequently when Carr contacted Elm that he had mail. Since Carr initially refused to provide the Receiver with access to the mail being held, the Receiver's counsel sent Carr a demand letter. Thereafter, Carr through its counsel permitted the Receiver access to the held mail upon the execution of an authorization form. The Receiver was given access by Carr to the held mail and telephone messages. Telephone calls answered by Carr are now being forwarded to the Receiver's offices. The Receiver also submitted a Change of Address with the United States Post Office directing all mail to the Receivership Entities to be delivered to the Receiver's offices.

Further, in order to freeze Defendants' assets and prevent dissipation, the Receiver and the SEC immediately sent correspondence and served copies of the Receivership Order and TRO upon individuals and entities believed to have Receivership assets or to be in any way related to the Defendants. Thereafter, within days of being appointed, the Receiver's counsel issued additional correspondence and, thereafter,

subpoenas to third parties for their records concerning the Receivership Entities in order to freeze any additional assets and prevent dissipation. The correspondence directed that, consistent with the Receivership Order, the Receivership Entities' assets be placed under the control of the Receiver.

D. The Receiver Continues to Identify Additional Assets and Gather Information

The Receiver has continued to identify additional individuals and entities that may be in the possession of Receivership assets or critical information. As these entities and individuals are identified, they are served with subpoenas or letter requests for relevant documents. This process insures that the Receiver obtains complete and accurate records of the Receivership Entities' transactions. Upon receipt, documents produced pursuant to subpoenas or letter requests are being analyzed by the professionals assisting the Receiver.

E. Investor Communications

The Receiver has taken steps to inform investors about the receivership. The Receiver sent a letter by Federal Express to all disclosed investors. The letter provides details about the receivership and receivership contact information. In addition the Receiver established a website (www.ElmTreeReceivership.com) to provide investors and all parties in interest with 24-hour access to pertinent filed court papers and related documents, calendared events and other important information relating to the case. The Receiver has also established a designated e-mail address (ElmTreeInfo@Moecker.com) for incoming inquiries from investors and this mailbox will be reviewed daily with responses delivered within 24 hours.

F. Number of Investors

The Receiver and her team are in the process of attempting to determine the number of investors in this case. While unverified at this time, books and records recovered from the Receivership Entities reflect that there were approximately 125 investors located mostly in Canada and Saudi Arabia who invested in the Receivership Entities. The Receiver's investigation in this case has been particularly challenging due to the lack of access to the Receivership Entities' electronic records, including accounting software, client statements, emails, client correspondence, client database and client documents.

G. Locations At Which the Receivership Entities Operated or Leased Premises

1. 401 East Las Olas Boulevard

The primary address listed for the Receivership Entities was 401 E. Las Olas Blvd., Suite 1400, Fort Lauderdale, Florida. This address is listed as the principle business address for ETIA with the Florida Department of State (“the Principle Business Address”). As discussed above, the Principle Business Address is a “virtual office” with no business records, employees or physical assets. No assets belonging to the Receivership Entities were identified or recovered at the Principle Business Address. On February 20, 2015, counsel for the Receiver advised Carr that the Receiver was terminating the lease agreement for the Principal Business Address between ETIA and Carr.

2. 2533 Northeast 26th Avenue

Virtually all business records recovered where located at 2533 Northeast 26th Avenue, Fort Lauderdale, Florida. This address is the personal residence of Elm and

Mrs. Elm. As described above, on January 16, 2015, limited business records of the Receivership Entities were recovered from the personal residence as Elm conducted business for the Receivership Entities from an office located within his personal residence. The Receiver also took into her possession and custody one (1) desktop computer and one (1) new boxed laptop computer identified as Receivership assets. *See* Exhibit A.

3. 2530 North Federal Highway

The Receiver became aware shortly after her appointment of another office location leased by a Receivership Entity located at 2530 N. Federal Highway, Fort Lauderdale, Florida. It was discovered that ETIA entered into a lease agreement with DMV Real Property, Inc. ("DMV") in December, 2014. No business records of the named Receivership Entities were recovered at the premises. Instead, these premises were ostensibly being used by a company called Myecco, LLC ("Myecco"), an entity controlled by Elm.

On February 5, 2015, the Receiver took into her possession and custody from the space leased from DMV certain assets identified as Receivership assets and more particularly described on Exhibit A. Through her counsel, the Receiver made a demand upon Defendants' counsel, for the return of certain items that had been removed from the premises. The Receiver was advised that Elm and certain employees of Myecco had removed property claimed as personal. The Receiver is reviewing the documents provided by Defendants' counsel in support of Elm's claims of ownership. The Receiver through her counsel made a demand upon Craig Henderson, an employee of Myecco for the return of the removed security cameras and DVR from the premises. Mr. Henderson

returned the items to the Defendants' counsel. On February 10, 2015, the Receiver took possession and control of the security cameras and DVR removed from the premises. *See* Exhibit A. On February 27, 2015, the Receiver took possession and control over two (2) monitors and two (2) computers which had been removed from the premises. *See* Exhibit A. As discussed more fully below, on March 13, 2015, the Receiver filed a motion to approve a proposed settlement agreement between the Receiver and DMV [D.E. 43].

III. THE RECEIVERSHIP ESTATE ASSETS RECOVERED TO DATE AND LIABILITIES

A. Bank and Brokerage Accounts

Following the entry of the TRO [D.E. 14], counsel for the Commission immediately served the TRO on all known bank accounts and known brokerage accounts of the Defendants. Following her appointment in this case, the Receiver immediately sent letters to TD Ameritrade, Wells Fargo Bank, N.A. and JP Morgan Chase Bank ("Chase Bank") demanding the transfer of all the funds in the Receivership Entities' names into the Receiver's designated Estate Account maintained at Union Bank. The frozen funds from the TD Ameritrade and Wells Fargo Bank, N.A.'s accounts have been transferred into the Receivership Estate's Account created by the Receiver, and are under the Receiver's control. In response to her demand letter, Chase Bank advised the Receiver that the three accounts identified in the Freeze Order [D.E. 14] in the Receivership Entities' names were closed in 2014.

Shortly after her appointment, the Receiver also became aware of an expiring open options transaction in an account located at TD Ameritrade. The situation required the Receiver to take immediate action to liquidate the position or risk a loss of the entire investment in the options position that was initiated pre-receivership by Elm. On January

21, 2015, the Receiver liquidated the position, which led to the recovery of \$2,487,265.22 for the benefit of the Receivership Estate.

In accordance with the Receivership Order [D.E. 13], the Receiver has also paid certain necessary expenses in carrying out her duties and responsibilities.

B. Current Status of Accounting For the Receivership Estate

Based on the recoveries and expenses paid to date, the following table reflects by source the current account status for the Receivership Estate:

Elm Tree Receivership Estate Account as of February 26, 2015	
Receipts	
Turnover of Funds from TD Ameritrade Brokerage Account	\$2,487,265.22
Turnover of Funds from Wells Fargo Bank, N.A. Accounts	44,718.56
Total Receipts	\$2,531,983.78
Disbursements	
Bank Service Fee	(20.00)
Asset Appraisal	(500.00)
Website	(292.92)
Lexis/Nexis Research	(323.00)
Storage of Vehicles in Receiver's Custody	(493.97)
Total Disbursements	\$1,609.89
Net Balance in Estate Account	\$2,530,373.89

C. Other Assets of the Receivership Entities

The Receiver has identified numerous assets that were acquired with funds derived from the Receivership Entities. The Receiver has begun to take appropriate steps to secure such assets.

Vehicles

The Receiver has custody and control of a 2013 Bentley Continental GT Guy Smith Le Mans Edition and a 2011 Maserati Grand Turismo Sports Coup in accordance with this Court's Order of January 28, 2015. [DE 23]. *See* Exhibit A. The Receiver intends to seek turnover of these vehicles in order for the Receiver to liquidate same for the benefit of the Receivership Estate.

The Receiver has also discovered that several other vehicles were purchased with funds from the Receivership Entities, including a 2013 Land Rover and a 2014 Land Rover. The Receiver has learned that the 2013 Land Rover was allegedly given to Ahmad Naqvi and has not been located to date. This vehicle is believed to have been transported out of Florida by an auto transport company, with shipment fees paid by ETIA. Counsel for the Receiver has subpoenaed the shipment records.

Funds derived from Receivership Entities were also used as a down payment on a vehicle purchased by an employee of Elm's Myecco entity. Counsel for the Receiver has subpoenaed records for this transaction.

Real Property

In June 2014, Elm and Mrs. Elm purchased real property at 2533 NE 26th Avenue, Fort Lauderdale, Florida for \$1,750,000.00 with funds from the Receivership Entities. The Receiver intends to seek the immediate turnover of this asset. Approximately

\$812,624.00 of Receivership Entities' funds were used towards the purchase of the Elm residence.

Jewelry

The Receiver has discovered that significant amounts of expensive jewelry were purchased with funds derived from the Receivership Entities. To date, the Receiver has identified approximately \$228,667.00 in jewelry that was purchased from various high-end jewelry stores. Subpoenas have been issued to the vendors that are believed to have sold the jewelry to the Elms.

The Receiver has learned that a personal jewelry insurance policy with Jewelers Mutual Insurance Company was paid by ETIA. Jewelers Mutual produced to the Receiver a copy of the insurance policy effective December 26, 2014 with a total scheduled jewelry limit of \$225,735.00.

Furniture

Elm and Mrs. Elm purchased furniture for their new residence with over \$100,000.00 in funds from the Receivership Entities. The Receiver is currently investigating the full scope of the furniture purchases and will advise the Court in more detail on her findings in future reports.

Home Safe

During the course of her ongoing investigation of the assets of the Receivership Entities, the Receiver discovered that a 400 pound safe was purchased and installed in the Elm residence with funds derived from ETIA. Upon an *ex parte* motion filed by the Receiver [D.E. 26], the Court entered an Order granting the Receiver the turnover of the safe and its contents [D.E. 27]. On February 13, 2015, the Receiver and her team with

the assistance of local law enforcement recovered the safe and its contents from the Elm residence. The Receiver took into her possession and control the safe, and its contents including firearms, ammunition, and various pieces of jewelry. *See Exhibit A.*

Computers, Office Furniture, and Equipment

Further, the Receiver has taken into her possession and custody various computers, office furniture and equipment purchased with funds from the Receivership Entities located at the Myecco office and the Elm home office. *See Exhibit A.*

D. Liabilities

As discussed above, the Receiver has elected to terminate the Carr and Myecco leases. The Receiver and her counsel recognized the fact that maintaining the leases and utilizing Carr's services and the space at the Myecco office space would be a burden on the Receivership Estate.

The Receiver vacated the Myecco office on February 5, 2015, and cancelled the electric, water and security service at the Myecco leased premises. The Receiver negotiated a settlement with the landlord for the Myecco office and on March 13, 2015, filed a motion for Court approval of that settlement. [D.E. 43]. ETIA had entered a multi-year lease with DMV, which would have obligated the Receivership Estate to pay rent for many years costing tens of thousands of dollars. Under the proposed settlement agreement, DMV would retain the initial \$9,400.00 security deposit paid by ETIA –most of which was used to pay rent obligations already incurred - in exchange for a full release of liability for all obligations under the multi-year lease. Had the Receiver not reached an agreement, the landlord could have pursued substantial claims against the Receivership Entities, which, if successful, would have depleted funds otherwise available for

investors. Moreover, the Receiver might have incurred significant litigation expenses in defending such claims.

Thus far, the Receiver has not identified significant additional liability of the Receivership Entities.

E. Affiliated Entities

Upon information developed from her investigation to date, the Receiver has learned that Myecco and Fiberforce Communications, LLC. are entities controlled by Elm. These entities received significant amounts of funds transferred from the Receivership Entities. ETIA signed the lease for Myecco offices.

The Receiver is conducting further investigation into these entities and their relationship to the Receivership Entities.

IV. OTHER MATTERS

A. Fees and Costs Incurred by the Receiver's Team

Of particular importance to the investors is the impact that the Receiver's investigation will have on returns of invested monies. The Receiver and her professionals are especially cognizant of these concerns and are working diligently to maximize the amount of monies available to return to investors. All professionals have agreed to work at discounted rates.

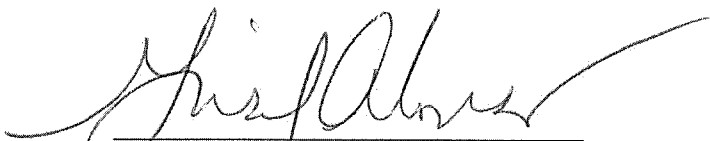
B. Future Claims Process

Once the Receiver identifies and recovers sufficient assets, the Receiver anticipates establishing a claims process to facilitate return of investor funds. Although the scope of that process has not yet been determined, it is intended that investors will receive proof of claim forms to be completed by a claims deadline date, yet to be established.

V. CONCLUSION

The Receiver will continue to carry out her duties under the Receivership Order and will be filing additional reports with the Court to advise the Court and all interested parties of the progress of the Receiver's work and to make recommendations.

Dated: March 20, 2015



GRISEL ALONSO, as Receiver for
Elm Tree Investment Advisors, LLC,
Elm Tree Investment Fund LP, Elm Tree
"e"Conomy Fund LP, and Elm Tree Motion
Opportunity LP

Respectfully submitted,

BROAD AND CASSEL
Counsel for Receiver
One Biscayne Tower, 21st Floor
2 S. Biscayne Boulevard
Miami, FL 33131
Telephone: (305) 373-9467
Facsimile: (305) 995-6387

By: /s/ Daniel S. Newman

Daniel S. Newman, P.A.
Florida Bar No. 0962767
dnewman@broadandcassel.com
Christopher Cavallo, Esq.
Florida Bar No. 0092305
ccavallo@broadandcassel.com

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

s/Daniel S. Newman

Daniel S. Newman, P.A.

SERVICE LIST

Patrick R. Costello, Esq.
Katharine Zoladz, Esq.
costello@sec.gov
zoladzK@sec.gov
U.S. Securities and Exchange Commission
801 Brickell Avenue
Suite 1800
Miami, FL 33131
305-982-6380
305-536-4154 (fax)
*Counsel for U.S. Securities and Exchange
Commission
Via CM/ECF*

David R. Chase, Esq.
david@davidchaselaw.com
David R. Chase, P.A.
1700 East Las Olas Boulevard
Suite 305
Fort Lauderdale, FL 33301
*Counsel for Defendant Frederic Elm and
Relief Defendant Amanda Elm
Via CM/ECF*

Christopher Bruno, Esq.
cbruno@brunodegenhardt.com
Bruno & Degenhardt
10615 Judicial Drive
Suite 703
Fairfax, VA 22030
*Counsel for Defendant Frederic Elm and Relief
Defendant Amanda Elm
Via CM/ECF*