

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-60082-CIV-DIMITROULEAS/Snow

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

FREDERIC ELM, f/k/a Frederic Elmaleh, ELM TREE
INVESTMENT ADVISORS LLC, ELM TREE
INVESTMENT FUND LP, ELM TREE 'E'CONOMY
FUND LP, ELM TREE MOTION OPPORTUNITY LP,
and AMANDA ELM, f/k/a Amanda Elmaleh,

Defendants.

ORDER

THIS CAUSE is before the Court on non-party Phil Elmaleh's Motion for Protective Order on behalf of MojiLife, Inc. (ECF No. 180)¹, which was referred to United States Magistrate Judge Lurana S. Snow.

Phil Elmaleh, on behalf of MojiLife, Inc., challenges a subpoena duces tecum noticed by the Receiver in this case directed to a former employee of MojiLive. Mr. Elmaleh requests a hearing to determine whether the Receiver should be permitted to obtain MojiLife's proprietary information, including MojiLife's source code from the deponent. Mr. Elmaleh requests time to hire an attorney in advance of a hearing on the issue. A corporate entity must be represented by counsel to appear in federal court. Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985) (“the long standing and consistent court interpretation of § 1654 is that [corporations] must be represented by licensed counsel”)(quoting Turner v. American Bar Ass’n, 407 F. Supp. 451, 476 (N.D. Ind. 1975), aff’d sub nom., Taylor v. Montgomery, 539 F.2d 715 (7th Cir. 1976), cert. denied, 474 U.S. 1058, 106 S.Ct. 799, 88 L.Ed.2d 775 (1986)). Accordingly, it is hereby

¹ On August 20, 2017, Mr. Elmaleh sent an email to the Honorable William P. Dimitrouleas which the Court construed as a motion for protective order.

ORDERED AND ADJUDGED as follows:

1. MojiLife shall retain counsel who shall enter an appearance on or before September 5, 2017, to represent MojiLife's interests in this action. Failure to do so will result in an order striking the motion for protective order.

2. The Court will set the matter for hearing, if necessary, after MojiLife retains counsel, and will afford the Receiver an opportunity to respond in writing in advance of the hearing.

DONE AND ORDERED at Fort Lauderdale, Florida, this 22nd day of August, 2017.


LURANA S. SNOW
UNITED STATES MAGISTRATE JUDGE

Copies to:

All Counsel of Record

Phil Elmaleh (Via U.S. Mail)
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