


FILED BY 	D.C.
JUL 1 - 2019	
ANGELA E. NOBLE CLERK U.S. DIST. CT. S. D. OF FLA. - FT. LAUD.	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 15-CV-60082-WPD-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.

Objection to Claimant No 9's - Proposed Distribution Method

1. The Request

I, Khalil Mohammed, claimant #24, would like to formally object again to the handling of my claim specifically in regards to how my claim is currently being documented which has resulted in the full loss of my claim for the initial distribution.

2. The Objection

The Receiver's filing of the claims in document 'Motion for Court Approval of Receiver's Recommendations Concerning Claims - Document 200-2' – Exhibit A (Spreadsheet).xls incorrectly states my claim (#24) to be in the amount of **\$126,900USD**. This amount has been used as the final basis of distribution as per the "Rising Tide Proposed Interim Distribution Revised – Document 220-1" [EXHIBIT 1].

However, as stated clearly in my Introductory letter and my Summary of Claim [Exhibit 2A & 2B] dated September 26, 2017 included with my 'Proof of Claim' filing (to which the Receiver has the full copy), my claim is for **\$65,000USD**.

While I did invest \$62,000USD in previous Elmtree funds (*eConomy* and *ETMO*), as per the attached Bank Statements [EXHIBITS 3 & 4] and as per the Defendants own admission, Alonso v Elmaleh Affidavit of Victor Elmaleh (pp. 4 and 17) [EXHIBITS 5 & 6], I was returned exactly the \$62,000USD I invested in those funds. **As such this would leave my investment in the fund at net \$0.** This is why I DID NOT file a claim against any of the *eConomy* and *ETMO* funds.

However, I did subsequently invest \$65,000USD in the *Elmtree Etopia Fund* [EXHIBIT 7]. I then submitted a claim to the Receiver when this fund was subsequently added to the Receivership list of funds in early 2017.

During this submission, I chose to include the documents for the previous *eConomy* and *ETMO* funds along with my single claim in the *Etopia Fund* in the hopes that any information I could provide could aid in the recovery of funds for all investors and as requested by the Receiver. I submitted this information in claim form.

Specifically, I was aware of a bank account (JPMorgan Chase – Account#523975527) to which I had wired money as detailed in my email correspondence with Fred Elmaleh [EXHIBIT 8]. This account did not appear on the Receivers Standardized Fund Accounting Report – Exhibit 1. [EXHIBIT 9] which was the one of the few Receiver supporting documents at the time. As stated, I had hoped that this additional information could be helpful recovering money for all investors.

In hindsight I realize I made an error in submitting this information in claim form. But at the time I thought this was the only method available to me to be able to document my interaction with the previous Elmtree Funds as it followed the Receivers established standard of information gathering. However to my detriment, this amount was instead added to my overall claim. I did not consider that doing the right thing could result in my being penalized for it.

Finally, as per the SEC Press Release of 2015-01-21 [**Exhibit 10**], the three related funds "raised more than \$17 million since November 2013". However in the Receiver's "Rising Tide Proposed Interim Distribution Revised – Document 220-1" distribution chart, the total claim for all participants is ~\$12.5 million. Thus it could be concluded that some investors did not submit a claim and rightfully do not appear on the claim list. Similarly my explicit instruction to not consider the information I submitted concerning the *eConomy* & *ETMO* funds should also follow the same logic. I did not make a claim against these funds, thus it should not be on the list. By doing so, I have been singled out and my case treated entirely different from the others.

Thus by the Court now ruling in favour of Claimant #9's method of distribution, my choice of submitting information to aid the investigation in claim form is preventing me from participating in the proceeds from the initial distribution.

3. Summary

Therefore for the reasons set forth in this Objection, I would like to respectfully request that the Court adjust the true amount of my claim to the amount of \$65,000USD and my initial return amount to \$0. This would rightfully allow me to receive my portion of the initial distribution.

Unfortunately due to the complexity of the calculation as detailed in the Receivers Notice of Filing Amended Revised Distribution Chart – "*Because the Receiver believes she must look at each claimant—as opposed to each claim—in order to distribute under the rising tide methodology*", I cannot specifically state what the amount of my claim should total given this new method but would ask the Court to request the Receiver make the necessary adjustments.

I would also like to request that I have the opportunity to phone in to hear the ruling on my objection.

RISING TIDE PROPOSED INTERIM DISTRIBUTION REVISED

Claim No.	Confirmed Deposits	Confirmed Returns	Net Investor Loss	Initial Investment Return Percentage	Total First Interim Distribution Amt	Total Returns Amt Received	Total Returns Amt Received %
1	\$34,000.00	\$0.00	\$34,000.00	0.00%	\$9,753.89	\$9,753.89	28.69%
2	\$700,000.00	\$0.00	\$700,000.00	0.00%	\$200,815.37	\$200,815.37	28.69%
3	\$49,965.00	\$0.00	\$49,965.00	0.00%	\$14,333.91	\$14,333.91	28.69%
4	\$49,980.00	\$0.00	\$49,980.00	0.00%	\$14,338.22	\$14,338.22	28.69%
5	\$94,119.00	\$0.00	\$94,119.00	0.00%	\$27,000.77	\$27,000.77	28.69%
6 & 7	\$469,256.00	\$101,200.00	\$368,056.00	21.57%	\$33,419.74	\$134,619.74	28.69%
9	\$2,999,950.00	\$0.00	\$2,999,950.00	0.00%	\$860,622.95	\$860,622.95	28.69%
10	\$70,000.00	\$50,000.00	\$20,000.00	71.43%	\$0.00	\$50,000.00	71.43%
11	\$49,913.66	\$0.00	\$49,913.66	0.00%	\$14,319.19	\$14,319.19	28.69%
12 & 13	\$5,750,000.00	\$1,451,443.49	\$4,298,556.51	25.24%	\$198,111.33	\$1,649,554.82	28.69%
14	\$23,860.00	\$0.00	\$23,860.00	0.00%	\$6,844.94	\$6,844.94	28.69%
15	\$479,870.00	\$14,800.21	\$465,069.79	3.08%	\$122,864.46	\$137,664.67	28.69%
16	\$69,970.00	\$0.00	\$69,970.00	0.00%	\$20,072.93	\$20,072.93	28.69%
17	\$199,950.00	\$0.00	\$199,950.00	0.00%	\$57,361.48	\$57,361.48	28.69%
18	\$360,950.00	\$158,885.00	\$202,065.00	44.02%	\$0.00	\$158,885.00	44.02%
19	\$48,410.00	\$0.00	\$48,410.00	0.00%	\$13,887.82	\$13,887.82	28.69%
20	\$32,000.00	\$0.00	\$32,000.00	0.00%	\$9,180.13	\$9,180.13	28.69%
21	\$716,965.00	\$35,850.00	\$681,115.00	5.00%	\$169,832.27	\$205,682.27	28.69%
22	\$14,975.00	\$0.00	\$14,975.00	0.00%	\$4,296.01	\$4,296.01	28.69%
23	\$81,945.00	\$25,000.00	\$56,945.00	30.51%	\$0.00	\$25,000.00	30.51%
24	\$126,960.00	\$64,000.00	\$62,960.00	50.41%	\$0.00	\$64,000.00	50.41%
25	\$79,980.00	\$0.00	\$79,980.00	0.00%	\$22,944.59	\$22,944.59	28.69%
TOTAL	\$12,503,018.66	\$1,901,178.70	\$10,601,839.96		\$1,800,000.00	\$3,701,178.70	

EXHIBIT 1

September 26, 2017

Dear Ms. Alonso,

Please find enclosed a set of documents detailing my investment in various ElmTree Investment Funds. I have included the documents that I feel best support my single proof of claim. I do possess the full Subscription documents for each Fund but did not enclose all of them, only the ETOPIA Fund, due to sheer size. I can email the remaining subscriptions upon request.

As I mentioned in my email to you, I did not submit earlier because I was convinced by Ahmad Naqvi through various phone conversations that my investments were secure and that in doing so, I was being singled out due to my family's Muslim background.

In addition, the initial claim sent by you did not include the ETOPIA fund which, as I understand, was only added in February of this year (2017). While I did invest in the other funds, I was sent back the exact total of my initial deposits of the 'e'conomy and ETMO Funds, which I then reinvested in the ETOPIA fund. Full documentation is included within.

Just to be clear, I am not filing a claim for either the 'e'conomy Fund or ETMO fund, since the INITIAL funds only were returned to me as detailed in the enclosed documents of the ETOPIA claim form. I am including that information as required for full disclosure and in the hopes that this information could perhaps aid you in your investigation. For instance, I noticed in your Standardized Fund Accounting Report Jan 1, 2015 to Mar 31, 2015 that you have a list of all the bank accounts used for the funds. There is another account from JP Morgan Chase that does not appear on that list which I have detailed in the enclosed documents [p. KAM005]. I have highlighted it in yellow.

Again, the only fund I am claiming for is the ETOPIA fund because I subsequently reinvested the returned money into that fund as shown in the enclosed documents.

While I understand that I have missed the deadline to file for the other funds, it is my hope that since the claim is still being investigated, since the ETOPIA Fund was only added this year, and that no money has yet been returned to investors, that I can still be considered.

Sincerely,

Khalil Mohammed
528 Maple Street
Collingwood, ON
L9Y 2S8
416.316.9588
k1967m@gmail.com

EXHIBIT 2

Summary of Claim

List of Funds Invested

'e'conomy Fund – Alibaba	Transfer: December 13, 2013	\$34,438.40CAD - \$32,000USD ¹
ETMO Fund – Uber & Pintrest	Transfer: June 30, 2014	\$32,685.00CAD - \$30,000USD ¹
'e'conomy Fund – Alibaba	Money returned: Oct. 28, 2014	\$32,000USD - \$34,566.40CAD ²
ETMO Fund – Uber & Pintrest	Money returned: Nov 14, 2014	\$30,000USD - \$32,736.00 ²
TOTAL CLAIM		

1 – INITIAL INVESTMENT (CDN to USD) given that dates CIBC bank exchange rate (See pp. [KAM009] and [KAM014])

2 – INITIAL INVESTMENT RETURNED (USD – CAD) given that dates CIBC bank exchange rate (See pp [KAM018] and [KAM019])

3 – FINAL INVESTMENT AMOUNT(USD – CAD) given that dates CIBC bank exchange rate (See p [KAM020])



fresh financial thinking.

your bank account

statement period: September 30, 2014 - October 31, 2014
 statement date: October 31, 2014
 account number: [REDACTED]

MR KHALIL A MOHAMMED
 4-115 FIRST ST SUITE 436
 COLLINGWOOD ON
 L9Y 4W3

overdraft limit: \$500.00
 overdraft amount \$0.00

details

date	transaction	funds out	funds in	balance
[REDACTED]				
Oct 28	ABM DEPOSIT		34,566.40	54,557.68
[REDACTED]				
total funds out		3,110.61		
total funds in			36,120.82	
closing balance				54,419.11

end of your bank account [REDACTED] information

RETURN OF 'ECONOMY FUND' INITIAL INVESTMENT

PO Box 603, STN Agincourt, Scarborough ON M1S 5K9 1-888-723-8881 pcfinancial.ca
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†President's Choice Financial services are provided by the direct banking division of CIBC.

KAMCIB



fresh financial thinking.

your bank account

statement period: October 31, 2014 - November 28, 2014
 statement date: November 28, 2014
 account number: [REDACTED]

MR KHALIL A MOHAMMED
 4-115 FIRST ST SUITE 436
 COLLINGWOOD ON
 L9Y 4W3

overdraft limit: \$500.00
 overdraft amount: \$0.00

details

date	transaction	funds out	funds in	balance
Nov 14	ABM DEPOSIT		32,736.00	86,252.11

[REDACTED]				
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total funds out: 6,307.50
 total funds in: 35,138.48
 closing balance: 83,250.09

end of your bank account [REDACTED] information

RETURN OF INITIAL 'ETMO' DEPOSIT

KAM019

0010040 11-04
Office AU # 1210(B)

CASHIER'S CHECK

SERIAL #: 6604800823
ACCOUNT#: 4861-513265

Purchaser: FREDERIC ELM
Purchaser Account: 7472473623
Operator I.D.: U374431 0910937

October 29, 2014

PAY TO THE ORDER OF *****KHALIL MOHAMMED*****

*****Thirty thousand dollars and no cents*****

****\$30,000.00****

WELLS FARGO BANK, N.A.
4875 N FEDERAL HWY
FORT LAUDERDALE, FL 33308
FOR INQUIRIES CALL (407) 394-8122

NOTICE TO PURCHASER - IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE. AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO BANK MAY IMPOSE A FEE AND
REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 30,000.00

NON-NEGOTIABLE

Purchaser Copy

FB004

EXHIBIT 5

CASHIER'S CHECK

0865126 11-24
Office AU # 121081

Purchaser: ELM TREE INVESTMENT FUND LP
Purchaser Account: 3872716070
Operator I.D.: 0006286

PAY TO THE ORDER OF ***KHALIL MOHAMMED***

SERIAL #: 0613600703

ACCOUNT#: 4861-513265

September 30, 2014

Thirty-two thousand dollars and no cents

***\$32,000.00**

WELLS FARGO BANK, N.A.
3300 N FEDERAL HWY
FORT LAUDERDALE, FL 33308
FOR INQUIRIES CALL (407) 394-3122

NOTICE TO PURCHASER - IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO BANK MAY IMPOSE A FEE AND
REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 32,000.00

NON-NEGOTIABLE

Purchaser Copy

F8304 ** 08/21/14

CONFIDENTIAL TREATMENT REQUESTED

ET INVESTMENT FUND 00046

EXHIBIT 6



fresh financial thinking.

your bank account

statement period: November 28, 2014 - December 31, 2014
statement date: December 31, 2014
account number: [REDACTED]

MR KHALIL A MOHAMMED
4-115 FIRST ST SUITE 436
COLLINGWOOD ON
L9Y 4W3

overdraft limit: \$500.00
overdraft amount: \$0.00

details

date	transaction	funds out	funds in	balance
[REDACTED]				
Dec 08	WIRE TR S/C	80.00		94,708.69
Dec 08	WIRE TR	76,063.00		18,645.69

[REDACTED]				
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DEPOSIT INTO ETIOPIA FUND

From: fred@elmtreeinvestment.com
Sent: Friday, November 29, 2013 12:07 PM
To: Khalil Mohammed
Subject: RE: Information from Khalil

Hello Khalil,

Thank you for the document. To finalize the transaction, please wire the funds in US Dollars to the following:

Bank: JPMorgan Chase Bank, N.A.
Address: 790 East Broward Boulevard, Fort Lauderdale, Florida, 33301
Bank Swift Code: CHASUS33
Credit to: Elm Tree 'e' Conomy Fund, LP (Account Number: 523975527)
Address: 401 E. Las Olas Boulevard, Suite 1400, Fort Lauderdale, Florida
33301
For Further Credit: Name of new limited partner

All the best,

Fred Elm
Fund Manager
Elm Tree Investment Advisors
Suite 1400 - 401 E. Las Olas Boulevard
Fort Lauderdale, Florida
U.S.A. 33301

Tel: 954.332.2461
Cell: 305.979.0918
Fax: 954.530.9887

fred@elmtreeinvestment.com
www.elmtreeinvestment.com

----- Original Message -----

Subject: Re: Information from Khalil
From: Khalil Mohammed <k1967m@gmail.com>
Date: Fri, November 29, 2013 9:33 am
To: fred@elmtreeinvestment.com

Hi Fred,

Here is the signed document as requested.

Thanks,
Khalil

On Thu, Nov 28, 2013 at 9:51 PM, <fred@elmtreeinvestment.com> wrote:

Hello Khalil,

I hope all is well. I have attached the Subscription Documents.
Please sign page 41, sign it, scan it and send it back to us. I only need
Page 41 signed. It will execute the document. Once you send back the
signature page, the final transaction will be the wire transfer.

All the best,

EXHIBIT 8

EXHIBIT 1

**STANDARDIZED FUND ACCOUNTING REPORT for Elm Tree Entities - Cash Basis
 Receivership; Civil Court Docket No. 0:15-cv-60082-WPD
 Reporting Period 01/01/2015 to 03/31/2015**

DETAIL OF LINE 3, CASH AND SECURITIES

Entity	Bank Name	Account Number	As of Date	Balance
ETI Fund LP	TD Ameritrade	867-127284	01/30/15	\$ 2,487,265.22
ETIA LLC	Wells Fargo Bank, N. A.	3472718067	02/11/15	3,750.45
ETI Fund LP	Wells Fargo Bank, N. A.	3472718075	02/11/15	6,270.61
F.Elm	Wells Fargo Bank, N. A.	5472483865	02/11/15	0.01
Motion Opportunity Fund	Wells Fargo Bank, N. A.	6485349689	02/11/15	34,689.49
Motion Opportunity Fund	Wells Fargo Bank, N. A.	2576810283	02/11/15	8.00
				\$ 2,531,983.78

EXHIBIT 9

Press Release

SEC Charges Investment Adviser and Manager in South Florida-Based Fraud

FOR IMMEDIATE RELEASE

2015-12

Washington D.C., Jan. 21, 2015 — The Securities and Exchange Commission today announced fraud charges and an asset freeze against a Fort Lauderdale, Florida-based investment advisory firm, its manager, and three related funds in a scheme that raised more than \$17 million since November 2013.

The SEC's complaint filed in federal court in the Southern District of Florida last week charged Elm Tree Investment Advisors LLC, its founder and manager, Frederic Elm, and Elm Tree Investment Fund LP, Elm Tree "e"conomy Fund LP, and Elm Tree Motion Opportunity LP. According to the complaint, Elm, formerly known as Frederic Elmaleh, his unregistered investment advisory firm, and the three funds misled investors and used most of the money raised to make Ponzi-like payments to the investors. The complaint alleges that Elm treated the funds as his personal piggy bank, tapping them to buy a \$1.75 million home, luxury automobiles, and jewelry, and to cover daily living expenses. Elm's wife, Amanda Elm, formerly Elmaleh, is named as a relief defendant based on her receipt of investor monies.

"Elm misled investors about how he and his funds would use their money and about how much he charged them in fees," said Eric I. Bustillo, Director of the SEC's Miami Regional Office. "As a result, Elm was able to wrongfully take millions of dollars from investors without their knowledge."

The SEC's complaint charges Elm, his advisory firm and the Elm Tree funds with violating anti-fraud provisions of federal securities laws and SEC anti-fraud rules. The SEC is seeking relief for investors, including return of allegedly ill-gotten gains, with interest, and financial penalties.

The Honorable William Dimitrouleas on Friday granted the SEC's request for a temporary restraining order and temporary asset freeze against Elm, his firm, and the three Elm Tree funds. The judge ordered a temporary asset freeze against Amanda Elm and required her and the other defendants to provide accountings. Judge Dimitrouleas also entered an order appointing Grisel Alonso as receiver for Elm Tree Investment Advisors and the Elm Tree funds. A court hearing has been scheduled for January 29.

The SEC's investigation, which is continuing, has been conducted by Katharine E. Zoladz and Mark Dee and supervised by Elisha L. Frank in the Miami Regional Office. Patrick Costello is leading the SEC's litigation.

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Related Materials

- SEC complaint

June 24, 2019

TO: United States District Court
Southern District Of Florida
U .S. Federal Building and Courthouse
299 East Broward Boulevard #108
Fort Lauderdale, FL 33301

CC: Copy by email to: elmtreeinfo@moecker.com

FROM: Khalil Mohammed
528 Maple Street
Collingwood, Ontario
Canada. L9Y 2S8

Claim #24

CASE NO. 15-CV-60082-WPD-DIMITROULEAS/SNOW

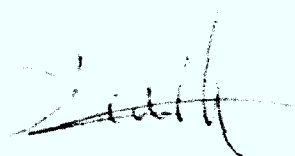
Security and Exchange Commission, Plaintiff,
v. Frederic Elm f/k/a Frederic Elmaleh et al., Defendants

Objection to Receivers Notice of Filing Distribution – Document 220

Dear Judge Dimitrouleas,

Please find enclosed a revised objection to the Receivers Notice of Filing Distribution which I don't feel was properly addressed during the May 9, 2019 hearing in which a verdict was reached. I thank you for your consideration in this matter.

Regards,

A handwritten signature in black ink, appearing to read 'Khalil Mohammed', with a long horizontal stroke extending to the right.

Khalil Mohammed
Claimant