

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE)
COMMISSION,)

Plaintiff,)

v.)

) CASE NO.
) 1:08-CV-00011-ODE

COADUM ADVISORS, INC.,)

MANSELL CAPITAL PARTNERS, III.,)

LLC, JAMES A. JEFFERY,)

THOMAS E. REPKE,)

COADUM CAPITAL FUND 1, LLC,)

COADUM CAPITAL FUND II, LP,)

COADUM CAPITAL FUND III, LP,)

MANSELL ACQUISITION)

COMPANY LP,)

Defendants.)

_____)

RECEIVER’S MOTION FOR AN ORDER REQUIRING THE
TRANSEFER OF ASSETS HELD BY WELLS FARGO
INVESTMENTS, LLC TO THE CUSTODY OF THE RECEIVER

COMES NOW the receiver appointed by the Court in this Action, Pat Huddleston II (the “Receiver”), and respectfully moves the Court for an Order requiring Wells Fargo Bank, National Association (“Wells Fargo NA”) and Wells Fargo Investments, LLC (“Wells Fargo Investments”), to transfer certain assets in

their possession into the custody of the Receiver and shows the Court the following:

1. On or about December 22, 2007, Defendant Mansell Capital Partners III, LLC (“Mansell Capital”) opened account number 040721708 at Wells Fargo Investments (the “Securities Account”).

2. On January 3, 2008, this Court entered an Order freezing the assets of Mansell Capital (the “Asset Freeze Order”) and appointing the Receiver to administer and manage the assets of Mansell Capital and the other defendants (the “Receiver Estate”).

3. On January 5, 2008, the Receiver personally delivered a copy of the Asset Freeze Order to Wells Fargo NA.

4. On January 8, 2008, Defendant Thomas E. Repke signed on behalf of Mansell Capital a Commercial Pledge Agreement (the “Collateral Pledge Agreement”) pledging the assets of the Securities Account as collateral for a loan by Wells Fargo NA to a third party.

5. On January 8, 2008, Defendant Thomas E. Repke signed on behalf of Mansell Capital a Securities Account Control Agreement with Wells Fargo Investments and Wells Fargo NA granting Wells Fargo NA the right to control the disposition and delivery of assets in the Securities Account.

6. Wells Fargo Investments has received actual notice of the Asset Freeze Order.

7. Wells Fargo NA now claims that its interest in assets held in the Securities Account is superior to the interest of the Receivership in those assets.

8. Upon information and belief, Wells Fargo Investments has permitted the transfer of assets from the Securities Account to Wells Fargo NA to satisfy obligations to Wells Fargo NA under the Collateral Pledge Agreement.

9. The rights of the Receiver Estate arising from the Asset Freeze Order constitute an adverse claim to the assets held in the Securities Account. UCC 8-102(a)(1).

10. Wells Fargo NA took its security interest in the assets held in the Securities Account with notice of the Receiver Estate's adverse claim to those assets.

11. Because Wells Fargo NA had notice of the Receiver Estate's adverse claim to the assets held the Securities Account, it may not continue to assert its security interest in those assets. *See* UCC §§ 8-105 & 8-510; *Securities and Exchange Commission v. Credit Bancorp, Ltd.*, 386 F.3d 438, 447-48 (2d Cir. 2004).

12. All assets held by Wells Fargo Investments in the Securities Account and all funds derived from those assets and transferred to Wells Fargo NA are properly assets of the Receiver Estate.

Wherefore, the Receiver respectfully requests that the Court enter an Order requiring Wells Fargo NA and Wells Fargo Investments to transfer custody to the Receiver of all assets or funds derived from assets held in account number 040721708 at Wells Fargo Investments.

Respectfully submitted this 10th day of July, 2008.

STEVEN W. HARDY, LLC

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Counsel for Defendants

VERIFICATION

I, Pat Huddleston II, declare under penalty of perjury on behalf of the Receiver Estate in this action, that I have read the within and foregoing RECEIVER'S MOTION FOR AN ORDER REQUIRING THE TRANSFER OF ASSETS HELD BY WELLS FARGO INVESTMENTS, LLC TO THE CUSTODY OF THE RECEIVER , that I have personal knowledge of the facts set forth in that motion or have been informed of such facts by authorized agents of the Receiver Estate, and that those facts are true and correct to the best of my knowledge, information and belief.

This 10th day of July, 2008.

/s/ Pat Huddleston II

Pat Huddleston II
Georgia Bar No. 373984

CERTIFICATE OF SERVICE

This is to certify that I have electronically filed a copy of the foregoing **RECEIVER'S MOTION FOR AN ORDER REQUIRING THE TRANSFER OF ASSETS HELD BY WELLS FARGO INVESTMENTS, LLC TO THE CUSTODY OF THE RECEIVER** with the Clerk of Court using the CM/ECF system, which will automatically notify all Judges, Clerks and counsel of record. In addition, I caused a copy to be delivered by electronic mail where indicated and by Hand Delivery, addressed as follows:

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This 10th day of July, 2008.

STEVEN W. HARDY, LLC

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