

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 18-23992-CIV-MARTINEZ/AOR

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

TIMOTHY JOSEPH ATKINSON,
JAY PASSERINO,
ALL IN PUBLISHING, LLC, and
GASHER, INC.,

Defendants.

REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon Temporary Receiver Melanie E. Damian's (the "Receiver") Unopposed Motion to Approve (A) Noticing and Claims Administration Process and (b) Plan of Distribution (hereafter, "Motion") [D.E. 242]. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636 by the Honorable Jose E. Martinez, United States District Judge [D.E. 243]. Having reviewed the Motion and being otherwise fully advised in the premises, the undersigned finds that the Receiver's proposed Noticing and Claims Administration Process and Plan of Distribution will provide a fair, equitable, and efficient method for distributing the proceeds of Defendants Timothy J. Atkinson, All In Publishing, LLC, Jay Passerino, and Gasher, Inc.'s (collectively, "Defendants") receivership estates to Defendants' defrauded customers and creditors.

RECOMMENDATION

Based on the foregoing, the undersigned **RESPECTFULLY RECOMMENDS** that the Motion [D.E. 242] be **GRANTED** and that the Proposed Order Granting the Motion [D.E. 242-4] attached hereto as Exhibit A be **ENTERED**.

Pursuant to Local Magistrate Judge Rule 4(b), the parties have **fourteen days** from the date of this Report and Recommendation to file written objections, if any, with the Honorable Jose E. Martinez, United States District Judge. Failure to file timely objections may bar the parties from attacking the factual findings contained herein on appeal. See Resolution Tr. Corp. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993). Further, “failure to object in accordance with the provisions of [28 U.S.C.] § 636(b)(1) waives the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions.” See 11th Cir. R. 3-1 (I.O.P. - 3).

DONE AND ORDERED in Chambers at Miami, Florida this 8th day of June, 2020.



ALICIA M. OTAZO-REYES
UNITED STATES MAGISTRATE JUDGE

cc: United States District Judge Jose E. Martinez
Counsel of Record

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:18-cv-23992-JEM

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

TIMOTHY JOSEPH ATKINSON, JAY
PASSERINO, ALL IN PUBLISHING, LLC,
& GASHER, INC.,

Defendants.

**ORDER GRANTING
THE RECEIVER'S UNOPPOSED MOTION TO APPROVE
(A) NOTICING AND CLAIMS ADMINISTRATION
PROCESS AND (B) PLAN OF DISTRIBUTION**

THIS CAUSE came before the Court upon the *Receiver's Unopposed Motion to Approve (A) Noticing and Claims Administration Process and (B) Plan of Distribution* (the "Motion") [ECF No. 242]. The Court, having reviewed the Motion, and otherwise being fully advised in the matter, finds good cause to approve the Motion as set forth below.

Accordingly, it is **ORDERED** as follows:

1. The Motion is **GRANTED** in its entirety.
2. The Court approves and authorizes the Receiver to implement the Claims Process and Distribution Plan proposed in the Motion or a Process and Plan that is substantially similar in form, effect and cost as the Receiver may determine, in his sole discretion, is necessary, appropriate and in the best interest of the Estate.

3. The Receiver is authorized to employ Bankruptcy Management Solutions d/b/a Stretto (“Stretto”) to provide noticing, claims processing and distribution services pursuant to the terms of the proposal attached as Exhibit B to the Motion.

4. The Receiver is authorized to utilize Stretto to send by email a Notice (in a form substantially similar to the form attached as Exhibit C to the Motion) to all potential claimants as identified by the Receiver.

5. The Receiver is authorized, without further order of the Court, to use the funds of the Defendants’ Estate to pay to Stretto the initial setup fee and the amounts of Stretto’s monthly statements or lesser amounts that the Receiver may determine, in his sole discretion, is reasonable and appropriate based on the services provided and costs incurred by Stretto, pursuant to the terms of the proposal attached as Exhibit B to the Motion.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of _____, 2020.

United States District Judge

Copies to: All Counsel of Record