

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE  
COMMISSION,  
  
Plaintiff,  
  
v.  
  
SAN FRANCISCO REGIONAL CENTER  
LLC, et al.,  
  
Defendants.

Case No. [17-cv-00223-RS](#)

**ORDER GRANTING MOTION FOR  
PRELIMINARY INJUNCTION AND TO  
APPOINT A RECEIVER**

I. INTRODUCTION

This action was initiated by the Securities Exchange Commission against defendant Thomas Henderson and a number of entities with which he was involved. The SEC contends Henderson engaged in a wide-ranging scheme to defraud at least 215 persons who have invested approximately \$107 million in businesses under his control, along with an additional \$8.9 million in fees. Certain of those businesses are already under the oversight of a receiver, appointed by the Alameda Superior Court in an action brought against Henderson by a former business partner. The SEC now seeks appointment of a receiver in this federal action over those and other businesses, as well as a preliminary injunction.

As explained below, there is only limited opposition to the request for appointment of a receiver, and even less to the entry of a preliminary injunction. Good cause appearing, both requests will be granted.

1 II. BACKGROUND

2  
3 A. The allegations

4 As alluded to above, the SEC contends that beginning in September of 2010, Henderson  
5 and “his companies” have defrauded more than two hundred persons of approximately \$107  
6 million in investments in the businesses, plus an additional nearly \$9 million charged as fees. The  
7 SEC asserts Henderson used his companies, including San Francisco Regional Center, LLC  
8 (“SFRC”), to entice foreign nationals to invest in specific enterprises that purportedly qualified  
9 under the Employment-Based Immigration Fifth Preference program (“the EB-5 program”), a  
10 federal program administered by the U.S. Citizenship and Immigration Services (“USCIS”). The  
11 EB-5 program provides a means for foreign nationals to qualify for U.S. residency by investing  
12 \$500,000 or more in a specified project determined to have created or preserved at least 10 jobs  
13 for United States workers.

14 Over the past five years, Henderson, through SFRC, has sponsored a total of seven projects  
15 under the EB-5 program. He and the entities he controls solicit funds from investors using private  
16 placement memoranda and business plans unique to each project. Each investor contributes  
17 \$500,000 in exchange for a security interest in a limited partnership that represents it will use the  
18 funds to operate, or make loans to, a specific, job-creating business.

19 The SEC alleges that rather than using each investor’s funds in the manner investors were  
20 promised, Henderson siphoned off millions of dollars for his own use and to fund his non-EB-5  
21 business ventures. Henderson also purportedly sent millions of investors’ dollars to overseas  
22 marketing agents, in contravention of representations to the investors and to the law governing  
23 EB-5 projects. Finally, the SEC claims Henderson engaged in an elaborate “shell game” of using  
24 funds solicited for one EB-5 project to fund other EB-5 projects, which was contrary to  
25 representations to investors, who were told their investment would be used for a specific EB-5  
26 project. According to the SEC, these actions have not only seriously jeopardized the investors’  
27 prospects for an economic return, but also their ability to obtain permanent residency through the  
28

1 EB-5 program.

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3 B. The parties and interested third parties

4 1. Named defendants

5 (a) Thomas M. Henderson—the sole individual defendant, and alleged principal behind  
6 the purported scheme.

7 (b) SFRC –a company purportedly owned and/or controlled by Henderson at the time of  
8 the alleged wrongdoing. Henderson obtained authorization from USCIS to operate SFRC as an  
9 EB-5 “Regional Center” that would sponsor EB-5 projects in and around Oakland, California.

10 (c) Immedia, LLC—another company owned and/or controlled by Henderson into which  
11 and/or through which some of the investor funds were allegedly funneled.

12 (d) The seven limited partnerships formed to operate the EB-5 projects:

- 13 California Gold Medal, L.P
- 14 CallSocket, L.P.
- 15 CallSocket II, L.P.
- 16 CallSocket III, L.P.
- 17 Comprehensive Care of Oakland, L.P.
- 18 NA3PL, L.P.
- 19 West Oakland Plaza, L.P

20 (e) Five LLCs that serve as general partners of the five respective above-listed limited  
21 partnerships with similar names:<sup>1</sup>

- 22 CallSocket, LLC
- 23 CallSocket II, LLC
- 24 CallSocket III, LLC
- 25 Comprehensive Care of California, LLC
- 26 North America 3PL, LLC

27 \_\_\_\_\_  
28 <sup>1</sup> SFRC was the general partner of the remaining two limited partnerships listed above (West  
Oakland Plaza and California Gold Medal).

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2. “Relief” defendants

The complaint also names as “relief defendants” certain entities that are not accused of having directly committed any legal violations, but are alleged to be holding funds or real estate that was diverted from the EB-5 projects. They are:

- CallSocket Holding Company, LLC;
- CallSocket III Holding Company, LLC;
- Central California Farms, LLC;
- Berkeley Healthcare Dynamics, LLC;
- JL Gateway, LLC

3. Others who submitted briefs and appeared at argument

(a) Allan Young—a self-described “interested party” who apparently was Henderson’s partner on the CallSocket projects. Young is the named plaintiff in an individual and derivative action entitled Young v. Henderson that has been litigated in the Alameda County Superior Court since July 2015. He asserts the receiver appointed in that action has already recovered more than \$29 million of misappropriated investor funds, to date.

(b) Susan Uecker—the receiver appointed in the state court action.

(c) “The EB-5 investors”—individuals who are self-described as “foreign nationals primarily from China and India” and who invested in SFRC and its related entities largely for the purpose of obtaining permanent legal residency under the EB-5 program.

(d) WOMAC Properties, Inc., and JLG Associates—entities associated with relief defendant JL Gateway, LLC. They are plaintiffs in a lawsuit WOMAC Properties, Inc., et al. v. San Francisco Regional Center, LLC, et al. filed in September of 2015 in Alameda County Superior Court.

1 (e) Taylor and Patchen— a law firm that submitted a one page brief on behalf of eleven  
2 individuals claiming to be “interested parties” – presumably investors—in California Gold Medal,  
3 L.P. The brief supports and joins in the SEC’s request for a receiver.  
4

5 III. DISCUSSION

6 A. Preliminary injunction

7 There is some dispute among the parties as to what standard applies in actions like this  
8 where the SEC seeks a preliminary injunction. The SEC proposes that it is entitled to a  
9 preliminary injunction if it can establish (1) a prima facie case of previous violations of the  
10 securities laws (2) and a reasonable likelihood that the wrong will be repeated. S.E.C. v. Unique  
11 Fin. Concepts, 196 F.3d 1195, 1199 n. 2 (11th Cir.1999). Although the Ninth Circuit has not  
12 expressly adopted this standard, it appears to be emerging as the accepted rule. See, e.g., SEC v.  
13 Capital Cove Bancorp LLC, 2015 WL 9704076 (C.D. Cal. 2015) (reviewing authorities and  
14 concluding “[i]n light of SEC’s statutory authority and the general acceptance of this standard by  
15 other district courts in the Ninth Circuit, the Court will apply the two-part standard in this  
16 matter.”)

17 Regardless of the precise articulation of the standard, a preliminary injunction is  
18 appropriate here. It may be, as some of the defendants and other interested parties have argued,  
19 that the SEC’s showing of a likelihood of future harm is not especially strong, but given the  
20 narrow scope of the relief provided by preliminary injunction, the SEC’s motion will be granted.  
21 The proposed injunction filed by the SEC will be signed and filed at the time the order on the  
22 receivership is filed.  
23

24 B. Receivership

25 While there is dispute about who should serve as a receiver, only a few defendants or other  
26 parties oppose appointment of a receiver per se, at least over their own operations. Most  
27 strenuously, defendants Comprehensive Care of Oakland, LP and its general partner  
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1 Comprehensive Care of California, LLC (collectively “CompCare”) argue they are operating a  
2 successful and “model” EB-5 business—a nursing facility with sub-acute care certification—in  
3 which Henderson no longer is involved. CompCare contends appointment of a receiver could  
4 trigger a loan default and decertification of the facility. Defendant North America 3PL, LLC and  
5 relief defendant Berkeley Healthcare Dynamics, LLC (collectively “BHD”) similarly contend they  
6 are operating a successful warehouse business with various contractual relationships that could be  
7 jeopardized by the appointment of a receiver.

8 Non-parties WOMAC Properties, Inc., and JLG Associates argue for exclusion of relief  
9 defendant JL Gateway from any receivership. JL Gateway itself, however, is part of the group of  
10 “SFRC related entities,” that is represented by counsel in this action and that expressly does not  
11 oppose appointment of a receiver.

12 Finally, while non-party Young supports continued state-court receivership over the  
13 CallSocket entities (which was imposed at his urging in the suit he brought in Alameda Superior  
14 Court), he argues some sort of “dual receivership” should go forward rather than have the existing  
15 receivership supplanted by any appointment of a receiver in this action. Young offers that he will  
16 cooperate to ensure that the two receiverships, and the two actions, are well-coordinated going  
17 forward. The CallSocket entities themselves, however, are represented in this proceeding by the  
18 receiver Susan Uecker (through her counsel) and do not object to appointment of a federal  
19 receiver.

20 Having carefully considered the record and the briefing of the parties, and having taken the  
21 briefing of non-parties into account in the nature of amicus, the Court finds:

- 22 1. Appointment of a receiver is appropriate at this juncture except as to the CompCare  
23 entities and the BHD entities.
- 24 2. A “dual receivership” of any form is not appropriate. The receivership in this action  
25 will therefore include the CallSocket entities.
- 26 3. The most appropriate person to serve as the receiver is Susan Uecker.
- 27 4. At this point in time, Uecker will also be appointed as a monitor over the CompCare  
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and BHD entities. She will be expected to provide the Court a report within 45 days as to:

- (a) whether there are reasons justifying expansion of her authority over those entities from “monitor” to “receiver,” and;
- (b) the likelihood, if any, that her appointment as a receiver over any or all of those entities would cause disruption to any of those entities’ contractual relationships with third parties.

5. A stay of all state court actions is appropriate and necessary to effect the purposes of the receivership.

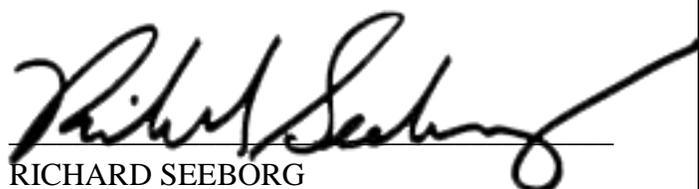
Accordingly, the SEC’s motion to impose a receivership in this action will be granted, as limited above. Within five days of the date of this order, the SEC shall submit a revised proposed order, approved as to form by counsel of record for all named parties in this proceeding, effecting the appointment of Uecker as receiver and monitor, respectively.

IV. CONCLUSION

The SEC’s motions are granted, to the extent set out above. A revised proposed order appointing a receiver shall be submitted as specified.

**IT IS SO ORDERED.**

Dated: March 23, 2017

  
RICHARD SEEBORG  
United States District Judge