

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

SECURITIES AND EXCHANGE)	
COMMISSION)	
)	
Plaintiff)	
)	
vs.)	Case No. 3:00-CV-446 RM
)	
FIRST CHOICE MANAGEMENT)	
SERVICES, INC., AND GARY)	
VANWAEYENBERGHE, et al.,)	
)	
Defendants)	

OPINION AND ORDER

SonCo Holdings, LLC and individual third-party claimants moved for a limited lift of the stay and injunction this court entered on September 5, 2006. For the reasons that follow, the court denies both motions as well as the joint motion to dismiss regarding the third-party claimants' motion filed by ALCO Gas & Oil Co. and the court-appointed receiver.

In their October 3, 2006 motions, individual third-party claimants Chris Stone, Kyle Stone, and Art Williams assert that they are owners of the surface and leasehold interest in property which is subject to the court-appointed receivership for First Choice Management Services, Inc. and request that the court lift its stay and injunction so that they may file suit to quiet title of that property in a District Court in Archer County, Texas. In response, ALCO and the receiver filed a joint motion to dismiss, arguing that the third-party claimants' motion runs afoul of the procedure established for the administration and disposition of all claims against

the receivership property. In the September 2006 order, the court stayed all persons and enjoined them from “directly or indirectly commencing, prosecuting, continuing or enforcing any suit or proceedings with regard to the leases or which might have a negative effect upon the full rights of ownership of such leases in BET” While the third-party claimants may seek leave to intervene in this matter to assert and litigate their claims, they haven’t shown good cause to lift the stay and injunction and are precluded from instituting proceedings regarding the receivership property in other jurisdictions. Accordingly, the court DENIES the third-party claimants’ motion for limited lift of stay and injunction [Doc. No. 490] and DENIES AS MOOT the joint motion to dismiss [Doc. No. 493].

After filing its intervenor complaint in the present action, SonCo Holdings also moved to lift the stay and injunction, requesting that it be allowed to seek release of the cash bond it posted in connection with a temporary restraining order entered against ALCO in state court proceedings filed in Archer County, Texas. In light of SonCo’s pending intervenor complaint, the court DENIES SonCo’s motion to lift stay for the limited purpose of releasing cash bond as premature [Doc. No. 529]. The parties may pursue their adverse claims to the bond following ruling on SonCo’s claim.

SO ORDERED.

Entered: October 2, 2008

 /s/ Robert L. Miller, Jr.
Chief Judge
United States District Court

cc: counsel of record