

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DAVID O. CONWILL, IV

CIVIL ACTION

VERSUS

NO. 11-0938

GREENBERG TRAURIG, L.L.P., et al.

SECTION: "G"(1)

ORDER

Considering this Court's Order and Reasons¹ dated September 28, 2012, which is adopted here,

IT IS HEREBY ORDERED that Defendant Jay I. Gordon's ("Gordon") Motion to Dismiss Pursuant to FRCP 12(b)(6), and, in the Alternative, Motions for Summary Judgment and to Strike² is **GRANTED IN PART** and **DENIED IN PART**. The motion is granted regarding Gordon's claims under Federal Rule of Civil Procedure 12(b)(6) that *res judicata* bars Conwill's claims pursuant to the Louisiana Racketeering Act and demand for punitive damages, and these claims are dismissed with prejudice. However, the motion is denied with regard to Gordon's claim that La. Rev. Stat. § 9:5605 applies to preempt Conwill's remaining claim for breach of fiduciary duty. Considering Conwill's state law claim for punitive damages is dismissed under *res judicata*, Gordon's alternative motion to strike under Federal Rule of Civil Procedure 12(f) is denied at moot.

NEW ORLEANS, LOUISIANA, this 28th day of September, 2012.


NANNETTE JOLIVETTE BROWN
UNITED STATES DISTRICT JUDGE

¹ Rec. Doc. 222.

² Rec. Doc. 60 (stating that this motion incorporates by reference all arguments in Rec. Doc. 65, which this Court fully addressed in Rec. Doc. 222).