

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-00023-RJC

U.S. COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
)
v.)
)
KEITH F. SIMMONS, et al.,)
)
Defendants, and)
)
LAWRENCE SALAZAR, et al.,)
)
Relief Defendants.)

**CONSENT ORDER PERMITTING THE SALE OF THE
459 ORCHARD DRIVE, GRANVILLE, OHIO PROPERTY**

On January 13, 2011, Plaintiff U.S. Commodity Future Trading Commission (the “CFTC”) filed its Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief naming multiple individuals and entities as defendants, including Relief Defendant Shiloh Estate, LLC (“Shiloh”), which owns certain real property located at 459 Orchard Drive, Granville, Ohio (hereinafter, the “Orchard Drive Property”). (Doc. No. 1). On February 11, 2011, the Court entered a Statutory Restraining Order (“SRO”) which, among other things, froze the assets of all named Defendants and Relief Defendants. (Doc. No. 47). On March 30, 2011, the Court entered a Consent Order of Preliminary Injunction and Other Equitable Relief (“PI Order”) against Shiloh and others. (Doc. No. 73). The PI Order provided in part that it and the SRO would remain in full

force and effect until further order of this Court, with the exception of certain provisions relating to discovery. (Id.). As a result, the freeze on Shiloh's assets continues.

The Court has now entered Summary Judgment in favor of the CFTC as to its claim against Shiloh, and a Judgment in the amount of \$1,305,642.33 plus post-judgment interest has been entered. (Doc. Nos. 177, 190). Pursuant to the Order and Judgment, Shiloh is ordered to disgorge \$1,305,642.33, plus post-judgment interest, to be distributed to victims in the amounts designated in Jonathan Davey's Judgment in Case No. 3:12-cr-68. On November 17, 2017, Shiloh filed a Notice of Appeal in the Fourth Circuit, seeking review of the Court's Orders granting Summary Judgment and the CFTC's unopposed Motion for Entry of Judgment, and the Judgment itself. (Doc. No. 192). Shiloh, however, now desires to enter into a real estate purchase contract for the sale of the Orchard Drive Property in its entirety, and on January 19, 2018, withdrew its appeal. (Case No. 17-2336, Doc. No. 5).

The CFTC, the United States, by and through the United States Attorney for the Western District of North Carolina, and Shiloh consent to the sale of the Orchard Drive Property, with all proceeds of the sale to be deposited with the Clerk of Court for distribution to the victims of the Ponzi scheme as set forth in the Court's March 29, 2017, Summary Judgment Order and subject to certain terms as set forth herein.

THE PARTIES AGREE AND IT IS HEREBY ORDERED that:

1. Shiloh, by and through Thaddeus Claggett and/or Claggett & Sons, Inc. (the "Claggett Entities"), is hereby authorized to enter into the contract for the sale of the Orchard Drive Property, dated November 15, 2017, to Richard A. Mazzarini and Megan M. Mazzarini, for a sales price of \$600,000.00 (six hundred thousand dollars and 00/100), and to proceed with the proposed sale of the Orchard Drive Property without further approval from the Court. The United States

will remove its Judgment Lien on the Orchard Drive Property in order to effect the transaction with no prejudice to its rights to reapply the lien in the event the proposed transaction is not consummated.

2. All net proceeds of the sale of the Orchard Drive Property shall be deposited with the Clerk of Court for distribution to victims in accordance with Davey's Judgment in Case No. 3:12-cr-68. "Net proceeds" shall mean the amount of money received by the seller after the sale of the property, after subtracting sales costs. A preliminary estimate indicates that net proceeds from the sale will be \$488,134.79. The check for the net proceeds realized from the sale shall be sent by the settlement agent directly to the Clerk of Court for the Western District of North Carolina, at the United States Courthouse, Charles R. Jonas Federal Building, 401 W. Trade St., Room 210, Charlotte, NC 28202.

3. Shiloh and the Claggett Entities (and/or any affiliated or related entities) are not seeking any portion of the net proceeds from the sale of the Orchard Drive Property.


4. Payment of the net proceeds to the Clerk of Court shall constitute a partial satisfaction of the Judgment against Shiloh.

5. In the event the offer/contract identified herein is withdrawn, or the sale is not consummated, Shiloh will take steps necessary to immediately surrender the Orchard Drive Property to the government and the government may, in its sole discretion, sell or otherwise dispose of the Orchard Drive Property with the net proceeds of any such sale or disposition to be deposited with the Clerk of Court for distribution to the victims in accordance with Davey's Judgment in Case No. 3:12-cr-68.

6. The SRO entered on February 11, 2011 and PI entered on March 30, 2011 are, as of the date of entry of this order, no longer in force and effect as to Shiloh.

7. Shiloh has withdrawn its notice of appeal.

Signed: January 25, 2018


Robert J. Conrad, Jr.
United States District Judge



WE CONSENT:

s/ Alan Edelman

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