

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,** §  
Plaintiff, §

v. §

Case No.: 3:16-cv-01735-D

**CHRISTOPHER A. FAULKNER,** §  
**BREITLING ENERGY** §  
**CORPORATION, JEREMY S.** §  
**WAGERS, JUDSON F. (“RICK”)** §  
**HOOVER, PARKER R. HALLAM,** §  
**JOSEPH SIMO, DUSTIN MICHAEL** §  
**MILLER RODRIGUEZ, BETH C.** §  
**HANDKINS, GILBERT STEEDLEY,** §  
**BREITLING OIL & GAS** §  
**CORPORATION, CRUDE ENERGY,** §  
**LLC, PATRIOT ENERGY, INC.,** §  
Defendants, §

and §

**TAMRA M. FREEDMAN and** §  
**JETMIR AHMEDI,** §  
Relief Defendants. §

---

**RECEIVER’S MOTION TO ESTABLISH FURTHER PROCEDURES FOR DETERMINATION OF  
RECEIVER’S PENDING MOTION TO APPROVE PLAN OF DISTRIBUTION AND TO ESTABLISH  
PROCEDURES TO DETERMINE AND DISALLOW CLAIMS**

---

Thomas L. Taylor III (“Receiver”), appointed as temporary receiver pursuant to Orders of this Court in the above-styled action, respectfully files this Motion to Establish Further Procedures for Determination of Receiver’s Pending Motion to Approve Plan of Distribution and to Establish Procedures to Determine and Disallow Claims (“Procedures Motion”).

On January 23, 2020, this Court scheduled a hearing on the Receiver’s Motion to Approve Plan of Distribution and to Establish Procedures to Determine and Disallow Claims (“Plan

Motion”) (Dkt. 506). On March 13, 2020, this Court entered an Order cancelling the hearing. In the Receiver’s view, the orderly administration of this Receivership Estate requires that issues raised in the Plan Motion -- and in the Objections to it -- be resolved in the near term. Without limitation, revenue presently held in suspense by oil and gas producers, requests for payment by taxing authorities and the ongoing disposition of assets through sale require resolution of the underlying Plan Motion. Accordingly, by the present motion, the Receiver proposes additional procedures pursuant to which the Plan Motion will be determined without the necessity of a live hearing. In substance, the Receiver and each of the timely Objectors would be afforded an opportunity to present additional written materials. The Receiver and each of the timely Objectors would be afforded a period of time to respond to the supplemental submissions, after which the matter would be decided by this Court.<sup>1</sup>

It is noteworthy that more than 1,300 putative claimants were given notice of the Plan Motion many months ago, and only ten (the “Objectors”) have interposed objections. On or about March 16, 2020, the Receiver initiated electronic “meet and confer” procedures with each of the Objectors with respect to the present Procedures Motion. Only four of the Objectors responded. Three of them (Perry, Wortham and Descamps) opposed the motion insisting that they wanted the motion for approval decided on the papers already before the Court, without more. None of these Objectors objected on the ground that they were entitled to a live hearing. Although Objector Perry had requested to be allowed to participate by telephone in the originally scheduled live hearing, he

---

<sup>1</sup> FED. R. CIV. P. 78(b): “PROVIDING FOR SUBMISSION ON BRIEFS. By rule or order, the court may provide for submitting and determining motions on briefs, without oral hearings.”

Local Civil Rule 7.1(g): “Unless otherwise directed by the presiding judge, oral argument on a motion will not be held.”

Judge Fitzwater’s procedures state that “[t]he judge follows local civil rule 7.1(g).”

made that request on the assumption there would be a live hearing. It bears repeating that Mr. Perry now wants the Plan Motion decided on papers presently filed without further proceedings. Paula Morris (acting for Objector PDM Holdings) agreed to Receiver's Procedures Motion on the condition that Objectors be given 90 days to respond to any supplemental submission made by the Receiver. That clearly would defeat the purpose of the motion which is to have the underlying issues decided in the near term. Here again though, Morris did not insist upon or request a hearing. Since a number of Objectors did not respond to the Receiver's "meet and confer" communication, further proceedings would seem to be fair and appropriate in light of the cancellation of the live hearing.

#### A. PROCEDURAL HISTORY

1. On February 25, 2019 the Temporary Receiver filed his Motion to Approve Proposed Plan of Distribution and to Establish Procedures to Determine and Disallow Final Claims (ECF No. 406) ("Plan Motion").
2. On March 26, 2019 this Court entered its Order granting the Receiver's Plan Motion (the "March 26 Order") (ECF No. 419).
3. On March 27, 2019, the Temporary Receiver filed a Motion to Amend the March 26 Order (ECF No. 421). On March 28, 2019, this Court entered its Amended Order granting the Receiver's Plan Motion (the "March 28 Order") (ECF No. 424).
4. Pursuant to the Court's March 28 Order, the Temporary Receiver compiled a list of 1,369 entities and individuals who are potentially affected. Of this number, the Temporary Receiver's personnel were able to retrieve addresses for 1,150 and the Notice of Plan (as defined in the Plan Motion) was served on those individuals and

entities. As prescribed by the Court, notices also were published in the Dallas Morning News and national edition of the Wall Street Journal. ECF No. 440 at 4.2

5. The Temporary Receiver filed his Proof of Service on June 5, 2019 (ECF No. 440). Objections were required to be filed within 21 days after the filing of this proof of service. See Order Granting Motion for Extension of Time to File Response to Objections to Proposed Plan of Distribution (ECF No. 435) at 1.
6. On June 7, 2019, the Temporary Receiver filed his Unopposed Motion to Hold the Court's March 28 Order in Abeyance (ECF No. 442) until such time as the Court considered and ruled on any timely-filed objections to the Temporary Receiver's Plan Motion. On June 10, 2019, the Court entered its Order Holding in Abeyance Order of March 28, 2019 (ECF No. 444).
7. As of the objection deadline (June 26, 2019) eight Objections had been filed with the Court; two additional objections were filed after the objection deadline. The Temporary Receiver filed an Omnibus Response to all of the Objections on July 17, 2019. (ECF No. 460).

The Receiver proposes that his Motion to Approve Plan of Distribution and the Objections interposed be determined -- without a live hearing -- as follows:

1. From the date upon which the Court enters an Order establishing additional procedures, the Receiver would have 10 calendar days to present supplemental materials;

---

<sup>2</sup> Citations to pages refer to page annotations in the CM/ECF Header.

2. From the date upon which the Court enters an order establishing additional procedures, all timely Objectors would have 10 calendar days to present any supplemental materials;
3. Following presentation of any or all supplemental materials by the Receiver and the Objecting parties as set forth above, all parties would have an additional 10 calendar days to respond to any supplemental submissions;
4. Upon presentation of any and all supplemental presentations and responses, the matter would be deemed submitted and ready for determination by this Court.

The Receiver respectfully requests that the Court grant this Motion to Establish Further Procedures for Determination of the Receiver's Pending Motion to Approve Plan of Distribution.

Dated: March 23, 2020

Respectfully submitted,

THE TAYLOR LAW OFFICES, P.C.

By: /s/ Thomas L. Taylor III

Thomas L. Taylor III  
Texas Bar: 19733700  
*taylor@tltaylorlaw.com*

245 West 18<sup>th</sup> Street  
Houston, Texas 77008  
Tel: 713.626.5300  
Fax: 713.402.6154

TEMPORARY RECEIVER

**CERTIFICATE OF CONFERENCE**

I certify that I have electronically met and conferred with the following parties and Objectors to the Receiver's proposed Plan of Distribution:

Objectors Charles and Cynthia Perry stated that they oppose the Receiver's Motion to Establish Further Procedures, but stated that they prefer to have this Court rule on the Receiver's Motion to Approve Plan of Distribution as submitted without further proceedings.

Objector Paul Wortham stated that he opposes the Receiver's Motion to Establish Further Procedures, but stated that he prefer have this Court rule on the Receiver's Motion to Approve Plan of Distribution as submitted without further presentations.

PDM Holdings, through it's counsel and principal Paula Morris, indicated that it did not oppose the additional proposed procedures provided that Objectors be given 90 days to respond to any supplemental presentation by the Receiver. The Receiver advised PDM Holdings that such a condition was not acceptable. Accordingly, PDM Holdings stands opposed.

Michael Descamps stated that he opposes the Receiver's Motion to Establish Further Procedures as "a waste of time" and did not assert a right to a live hearing.

Kohls Family Trust did not respond to the Receiver's meet and confer request.

Braun/Meyer, LLC and Brad Meyer did not respond to the Receiver's meet and confer request.

Dan Oelkers did not respond to the Receiver's meet and confer request.

Paul Gober did not respond to the Receiver's meet and confer request.

Schwimmer Family Trust did not respond to the Receiver's meet and confer request.

Carole Faulkner did not respond to the Receiver's meet and confer request.

I further certify that I conferred regarding the relief sought by this present Procedures Motion with the Securities and Exchange Commission; the Commission's counsel have stated that the Commission has no objection to the Procedures Motion.

/s/ Thomas L. Taylor III  
Thomas L. Taylor III

**CERTIFICATE OF SERVICE**

On March 23, 2020, I served the foregoing document pursuant to the Federal Rule of Civil Procedure 5(b)(2) by filing it through the Court's CM/ECF filing system.

I further certify that on March 23, 2020, I served a true and correct copy of the foregoing document on the following parties and persons entitled to notice that are non-CM/ECF participants:

Christopher A. Faulkner  
Johnson County Inmate  
FCI Seagoville  
Previous Register No. 76501-112  
1800 Ridgmar Dr.  
Cleburne, TX 76501  
*Pro Se Defendant*

/s/ Thomas L. Taylor III  
Thomas L. Taylor III



1. From the date hereof, the Receiver will have 10 calendar days to present supplemental materials with respect to the Receiver’s Motion to Approve Plan of Distribution and to Establish Procedures to Determine and Disallow Claims (the “Plan Motion”);
2. From the date hereof, all timely Objectors will have 10 calendar days to present supplemental materials with respect to the Plan Motion;
3. Following presentation of any or all supplemental materials by the Receiver and the Objecting parties as set forth above, all parties will have an additional 10 calendar days to respond to any supplemental submissions;
4. Upon presentation of any and all supplemental presentations and responses, the matter will be deemed submitted and ready for determination by this Court.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2020.

---

SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE