

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

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Civil Action No. 3:16-CV-1735-D
	§	
CHRISTOPHER A. FAULKNER, et al.,	§	
	§	
Defendants.	§	

TEMPORARY RECEIVER’S RESPONSE TO INVESTOR LETTER

Court-appointed temporary receiver Thomas L. Taylor III respectfully files this Response (Exhibit A attached hereto) to the letter of Breitling investor Louis R. Brinkerhoff pursuant to this Court’s Order of December 6, 2022 [ECF No. 685].

Dated: December 27, 2022

Respectfully submitted,

THE TAYLOR LAW OFFICES, PC

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COUNSEL FOR TEMPORARY RECEIVER

CERTIFICATE OF SERVICE

I certify that on December 27, 2022 I served the foregoing document pursuant to FED. R. CIV. P. 5 by filing it through the Court's CM/ECF filing system and mailing via US Mail to Louis R. Brinkerhoff at 237 Patrick Mill Circle, Ponte Vedra Beach, FL 32082.

/s/ Andrew M. Goforth
Andrew M. Goforth

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A PROFESSIONAL CORPORATION

December 27, 2022

VIA CM/ECF and US MAIL

Louis R. Brinkerhoff
237 Patrick Mill Circle
Ponte Vedra Beach, FL 32082

Dear Mr. Brinkerhoff:

This is in response to your letter to the United States District Court, dated November 12, 2022, in which you convey your concern regarding the timeframe in which we will be prepared to initiate a final distribution to the defrauded investors who have been victimized by the unlawful activities of Defendants in the present action. Having been involved in securities and commodities enforcement for a number of years, I completely understand your frustration -- both at having been defrauded of your savings and, perhaps, even retirement assets and at the often complex and time-consuming proceedings which are necessary to achieve any kind of remedy or redress.

Throughout the present action my staff and I have done our best to communicate with defrauded Breitling investors in several ways. First, and as required, we update the District Court on our progress through quarterly status reports; second, we maintain a Receivership website (www.BreitlingReceivership.com) where we post updates and matters of significance to our putative claimants; third -- and perhaps most important -- we field literally hundreds of emails and telephone calls from individual Breitling investors such as yourself. The interaction with Breitling claimants involves a range of topics from calculation of claims, to contact information and to our progress toward recovery and distribution. I make every effort to stay abreast of these inquiries even though I do not always respond personally. In connection with this response, I have reviewed (hopefully) all of your email correspondence with our office. Although I believe we have been responsive to your concerns, I take this opportunity to amplify and further explain our responses regarding the time it has taken to get to final distribution in the very near future.

For context, I hope you will consider a re-cap of where we started in this endeavor. In summary, the newly-created Receivership Estate had virtually no monetized assets (approximately \$25,000 in various inactive bank accounts), the de minimis cash flow from several oil and gas assets had been diverted -- through ongoing fraud -- to a post office box near Dallas under the control of Defendant Faulkner's mother. There was no coherent record of potentially producing oil and gas assets and to the extent that investors had control over producing assets they were completely inaccessible because of chaotic and inaccurate

EXHIBIT A

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conveyances. There was no database of investors of any kind other than subscriptions to certain working interest limited partnerships. In fact, at inception of the Receivership, the only potential claimants were in a very limited class of investors in working interests. We were able to demonstrate to the satisfaction of the District Court that the cash flow and assets of the various Breitling entities were so comingled that equity required that the Receivership be expanded to include all defrauded Breitling investors in any potential recovery and distribution. As newly constituted, the Receivership includes all investors, including the hundreds of royalty interest investor for whom relief will now be afforded.

By the time of the initial distribution, in or about April 2022, we were able (1) to reform title to a vast array of producing assets; (2) to sell assets at auction; (3) to investigate and successfully prosecute claims against professionals who contributed to implementation of the Breitling fraud; (4) through painstaking review of emails and other books and records to establish a database of over 1,100 potential claimants; (5) to solicit claims from these 1,100+ individuals and entities; and (6) with the assistance of forensic accountants to establish notional claim amounts. As discussed below, however, significant work remains to be done before the remaining Receivership Assets can be distributed.

First, permit me to address the logistical problems which arose in connection with the initial distribution. As I read your letter, you are concerned that these problems persist to the present time and impact the timing of the final distribution. That is not the case. The logistical problems which are discussed in your emails and communications from January to August 2022 with our office were all resolved prior to and in connection with the initial distribution in or about April 2022. In summary, we had prepared to engage BBVA to handle the mechanics of the distribution having relied upon that institution in connection with problem-free and efficient distributions in connection with other federal Receiverships. Prior to the initiation of the distribution, BBVA merged with PNC Bank. For reasons unclear to me, this occasioned a whole new set of protocols and completely new cast of personnel. Without being unduly critical, I have to say that there were inordinate complications and administrative disconnects. These were described to you primarily in our email communications. Be that as it may, the process was completed prior to the initial distribution. Those circumstances have no bearing on the timing of the final distribution which you and others understandably want to expedite.

Much as we would like to affect the final distribution and thereby conclude the Receivership as soon as possible, certain matters must be addressed; we urge you to bear with us as these are addressed. Open matters are as follows:

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1. Final tax payments to various taxing authorities throughout Texas and in other states must be funded; this involves pro rata sharing of some of the obligations with the buyer, at action, of most of the royalty interests. Because of provisions of the purchase and sale agreement, the buyer must initiate certain payments followed by proration between the Receivership Estate and the buyer.
2. Certain assets of the Estate bear obligations in excess of associated revenue. We have moved the District Court to exercise its equitable jurisdiction to permit abandonment of these assets. A motion to that effort is pending.
3. Certain potential claimants have been identified through a review of the Breitling entities books and records, but who -- after exhaustive efforts -- cannot be reached by any reasonably available means. We will shortly move the Court to vitiate these potential claims -- with the associated claim amounts to be added to the pool of funds available for distribution to all other known claimants (along with an upward re-calculation of percentage interests).
4. Certain assets (a small group of working interests) remain to be sold because of unresolved (and complex) title issues. We are approaching the end of reasonable efforts and will offer these assets for auction shortly.
5. During the pendency of the Receivership, we have taken possession of various cash and physical assets seized by the government in connection with parallel criminal investigations and proceedings. On or about July 22, 2022 we learned -- for the first time -- that an additional \$280,000 had been seized. We were required to submit a Petition for Seized Assets requesting transfer of the funds from the Treasury Executive Office of Asset Forfeiture. We submitted the Petition on or about August 3, 2022. It is still under review by the Financial Crimes Investigative Unit's division counsel for approval. Because the amount is material (and can be realized we believe in the near future) final distribution should account for the transfer of these funds.

We hope that this response has given you greater insight into the timing of our final distribution. Going forward, please continue to communicate your concerns to us; we will always endeavor to promptly respond.

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Respectfully submitted,



Thomas L. Taylor III
Temporary Receiver