

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

DAREN L. PALMER and TRIGON GROUP, INC., a
Nevada Corporation,

DEFENDANTS.

ORDER

Civil No. 09-75-E-EJL

Judge Edward J. Lodge

Before the Court is the Motion to Postpone Hearing filed by certain of the claimants who are objecting to the Securities and Exchange Commission's (SEC) Plan of Distribution (the Plan). (Dkt. No. 98.) The Court previously set a hearing for November 3, 2010 on the SEC's Motion for Approval of the Plan. In the instant motion, the objecting claimants seek a continuance of the hearing for a period of at least 120 days. The SEC opposes the proposed continuance.

Discussion

In their instant Motion, the objecting claimants argue additional time is necessary for their retained accounting firm and securities expert to review, analyze, prepare, and opine regarding the fundamental fairness of the Plan. (Dkt. No. 98.) In addition, the objecting

claimants claim they are awaiting documents requested from the Receiver, Wayne Klein, that are necessary for them to formulate their objections. The SEC opposes the Motion arguing it would impose unnecessary delay and undue expenses on the defrauded investors who are awaiting distribution of the available funds. Further, the SEC asserts the objecting claimants have failed to make any showing of how the Plan is unfair or unreasonable and seek only to engage in an “costly fishing expedition.” (Dkt. No. 99.) Additionally, the SEC represents that the information requested by the Receiver has already previously been provided in the record in this matter and been available; taking a deposition of the Receiver would yield no further information than what is already available.

Having reviewed the record, the Motion and supporting Affidavit, the Court denies the Motion. This matter has been pending for over a year; since February 26, 2009. (Dkt. No. 9.) The SEC filed its Motion for Approval of the Plan on June 9, 2010. On the same day, the Court entered an Order directing that any opposition to the Motion for Approval of the Plan must be filed no later than August 9, 2010. (Dkt. No. 74.) These claimants filed their objections on August 4, 2010. (Dkt. No. 84.) After reviewing the Motion, Objections, and entire record, on October 12, 2010, the Court set a hearing on the matter for November 3, 2010 to allow the parties and objecting claimants an opportunity to present to the Court, their arguments on the Motion for Approval of the Plan of Partial Distribution. (Dkt. No. 95.)

Given the length of time this case has been pending and the fact that the Plan was filed over four months ago, the Court finds the objecting claimants have had ample time to

undertake their analysis and investigation of the Plan. Notably, the objecting claimants did not seek additional time to file their objections and the objections they have filed, although general in nature, evidence the fact that they have a thorough knowledge of the Plan and its impact on these particular claimants. (Dkt. No. 84.) Further, the hearing was specifically set to provide ample time for the parties to prepare their arguments to be presented to the Court. As such, the Court will deny the Motion. The parties are all Ordered to appear as scheduled on November 3, 2010 to present their arguments on the Motion for Approval of Partial Distribution in full.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the Motion (Dkt. No. 98) is **DENIED**. The hearing on the Motion for Approval of Partial Distribution remains set for **Wednesday, November 3, 2010 at 2:30 p.m.** in Pocatello, Idaho. The hearing is set for one hour.



DATED: **October 25, 2010**

A handwritten signature in black ink, appearing to read "Edward J. Lodge".

Honorable Edward J. Lodge
U. S. District Judge