

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

v.

SENEN POUSA, INVESTMENT
INTELLIGENCE CORPORATION,
DBA PROPHETMAX MANAGED FX,
JOEL FRIANT, MICHAEL DILLARD, and
ELEVATION GROUP, INC.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

Civil Action No. A-12-CV-0862-LY

RECEIVER'S THIRD MOTION TO WITHDRAW
PREVIOUSLY FILED MOTIONS

Comes now Guy M. Hohmann, this Court's appointed Receiver ("Receiver"), and files this Third Motion to Withdraw Previously Filed Motions ("Motions") and respectfully shows unto the Court as follows:

BACKGROUND INFORMATION

The Receiver previously filed an Unopposed Motion to Appoint the National Futures Association as Monitor [Dkt. 167], Order Granting Unopposed Motion to Appoint the National Futures Association as Monitor [Dkt. #167-1], Order Granting Receiver's Unopposed Motion for Approval of Interim Distribution Plan [176-1] and [Dkt. #178] Amended Proposed Order Granting Receiver's Unopposed Motion for Approval of Interim Distribution Plan. Since the filing of the motions and orders listed above, the Receiver has agreed to a settlement (subject to this Court's approval) that would allow for a distribution to investors to increase from 9 cents to 36 cents on the dollar of each investor's claimants approved claim amount. At the present time, the Receiver

and ING Bank finalized the settlement agreement. A copy of the settlement agreement with ING was filed as exhibit 1 to the Receiver's Motion for Leave to File Under Seal [Dkt. # 205]. Due to IRS requirements, US investors will be required to file W-9's and 1099's. Upon doing further research, National Futures Association ("NFA") does not offer the services needed to meet the IRS's requirements. The NFA also had a much longer lead time when it came to issuing checks (months vs. five business days).

For this reason, the Receiver seeks the Court's permission to withdraw the motions listed above. The Receiver identified a distribution agent with the service offerings better suited to assist with the ING Settlement Distribution. The Receiver will submit to the Court, an ING Settlement Distribution Plan for the Court's approval.

CONCLUSION AND PRAYER

For the reasons set forth above, the Receiver respectfully requests this honorable Court grant the foregoing requested relief and for such other relief to which the Receiver may show himself to be entitled.

Respectfully submitted,

THE HOHMANN LAW FIRM, LLC

By: /s/ Guy Hohmann
Guy Hohmann
State Bar No.09813100
guyh@hohmannlaw.com
114 West Seventh Street, Suite 1100
Austin, Texas 78701
(512) 495-1400
(512) 499-0094 (Facsimile)

CERTIFICATE OF CONFERENCE

I have conferred via email with Tim Mulreany of the United States Commodity Futures Trading Commission. Mr. Mulreany is not opposed to the Motion.

By: /s/ Guy Hohmann
Guy Hohmann

CERTIFICATE OF SERVICE

On January 4, 2022, I electronically filed this motion and proposed order with the Clerk's Office in the United States District Court for the Western District of Texas Austin Division.

I hereby certify that I will serve parties individually or through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

By: /s/ Guy Hohmann
Guy Hohmann

FILED

FEB 25 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ON DEPUTY CLERK

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,
PLAINTIFF,

§
§
§
§
§
§
§
§
§
§
§

V.

CAUSE NO. A-12-CV-0862-LY

SENEN POUSA, INVESTMENT
INTELLIGENCE CORPORATION,
D/B/A PROPHETMAX MANAGED FX,
JOEL FRIANT, MICHAEL DILLARD,
AND ELEVATION GROUP, INC.,
DEFENDANTS.

ORDER

Before the court in this case is the Receiver’s Third Motion to Withdraw Previously Filed Motions filed January 4, 2022 (Doc. #208). The receiver filed an Unopposed Motion to Appoint National Futures Association as Monitor on March 27, 2020 (Doc. #167), which the receiver now requests be withdrawn from the record. Having considered the motion to withdraw and the case file,

IT IS ORDERED that the Receiver’s Third Motion to Withdraw Previously Filed Motions filed January 4, 2022 (Doc. #208) is **GRANTED**.

IT IS FURTHER ORDERED that the receiver’s Unopposed Motion to Appoint National Futures Association as Monitor on March 27, 2020 (Doc. #167) is **DEEMED WITHDRAWN** from the case file.

SIGNED this 25th day of February, 2022.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE