

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

FILED

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

-against-

INTERNATIONAL FIDUCIARY CORPORATION, S.A.;
DANIEL ERIC BYER;
MALCOLM CAMERON BOYD STEVENSON; and
PRESTON DAVID PINKETT, II

Defendants.
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2006 DEC 11 A 31

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

06 Civ. 1354

**SUPPLEMENTAL DECLARATION OF RICKY SACHAR
IN SUPPORT OF PLAINTIFF'S APPLICATION
FOR ENTRY OF AN ORDER GRANTING A TEMPORARY RESTRAINING
ORDER, ASSET FREEZE, AND PRELIMINARY INJUNCTION**

I, Ricky Sachar, pursuant to 28 U.S.C. §1746, declare as follows:

1. I am over 18 years of age and am employed as a Senior Counsel in the Division of Enforcement of the United States Securities and Exchange Commission ("Commission"). My duties are to conduct investigations into allegations of potential violations of the United States securities laws. On or about November 9, 2006, the Division of Enforcement commenced an expedited investigation into allegations that Defendants had been operating a fraudulent prime bank scheme. I have worked on this matter with other investigators in connection with that investigation since we first received that allegation. I make this Supplemental Declaration in support of the Commission's Application for a temporary restraining order, asset freeze, and preliminary injunction.

(11)

2. I make this Supplemental Declaration based upon personal knowledge, information and belief. The sources of my information and the bases of my belief are documents obtained and reviewed by myself and/or other Commission staff working with me (including those annexed hereto as Exhibits), conversations with numerous witnesses conducted by Commission staff, and information provided to me by other members of the Commission staff. The statements of others set forth herein are described in substance and in part, and not verbatim. To the extent that there are assertions herein concerning dates and numbers, they are approximate, based upon information and evidence gathered to date. Because the Commission submits this Supplemental Declaration for the limited purpose of supporting its Application, I have not set forth each and every fact that I know about the investigation.

3. Based on a preliminary review of the wire transfers sent from IFC's main operating account at United Bank from its opening date (approximately April 20, 2004) through November 28, 2006, approximately 30 different wires were sent to accounts in the name of Preston Pinkett, totaling approximately \$4 million. We believe that these monies were all sent to an account in the name of Pinkett at Bank of America. We do not know, however, what happened to the money once it was wired into accounts in the name of Pinkett. Attached hereto as Exhibit 1 is an example of a wire transfer from IFC's main operating account to an account in name of Pinkett. See Exhibit 1, second wire listed.

4. Based on a preliminary review of the wire transfers sent from IFC's main operating account at United Bank from its opening date through November 28, 2006, approximately 15 different wires were sent to accounts in the name of Daniel Byer, totaling approximately \$2 million. We believe that these monies were sent to either an

account in the name of Byer at Bank of America, or an account in the name of Byer at an international bank. We do not know, however, what happened to the money once it was wired into accounts in the name of Byer. Attached hereto as Exhibit 2 is an example of a wire transfer from IFC's main operating account to an account in the name of Byer. See Exhibit 2, third wire listed.

5. Through its Washington, D.C. based counsel (not counsel for IFC and Pinkett in this litigation), IFC alleged, in a letter to the British Columbia Securities Commission ("BCSC"), that, among other things, Byer had "no agreement(s) with IFC, nor is [he] an officer, director, or shareholder of the corporation."

6. On November 21, 2006, the BCSC interviewed, under oath and on the record, Christina Byer, the daughter of one of the named defendants, Daniel Eric Byer. Attached hereto as Exhibit 3 is a true and correct copy of Ms. Byer's testimony transcript. Ms. Byer testified that her father "told [her] directly" that the IFC investment program pays 6% per month returns to its investors. See Exhibit 3, page 18-19, lines 24-27 on page 18, and lines 8-11 on page 19.

7. Ms. Byer testified that her father told her that the 6% return was "guaranteed," and that the investment was "a completely safe, risk-free program." See Exhibit 3, page 22, lines 2-14.

8. Ms. Byer testified that "she knows that people put money into a bank account in the States and that they're getting six percent a month on the money that they're putting – putting there." See Exhibit 3, page 14, lines 3-5.

9. Ms. Byer said that she has been present for conversations that her father has with potential investors and her father "talks about there being a bank in the States where the

money sits, and then there's some different banks involved." See Exhibit 3, page 18, lines 15-17.

10. Ms. Byer testified that her father talks to "Mac, or Malcolm Stevenson and Preston [Pinkett] sometimes" in relation to IFC. See Exhibit 3, page 23, lines 21-25.

11. In the "comfort letter" that IFC gave investors (Exhibit 5 of the December 4, 2006 Sachar Declaration), IFC tells investors that their investment will remain on deposit at one of three different banks located in the United States – United Bank in Arlington, Virginia, Great Florida Bank ("GFB") or Banco Bilbao Vizcaya Argentaria ("BBVA"), both in Miami, Florida. Exhibit 7 to the December 4, 2006 Sachar Declaration, a handwritten flow chart provided to an investor, also suggested that BBVA was the bank that provided funds to the purported trading program.

12. Attached hereto as Exhibit 4 is a true and correct copy of an affidavit (with accompanying exhibits) submitted by Cesar Rubio, the Manager of Information Technology at BBVA, Miami Agency. The S.E.C. subpoenaed BBVA to determine whether IFC had any bank accounts at BBVA.

13. Mr. Rubio swore that, "based on my computer search of the records, I have determined that the BBVA Miami Agency has not opened an account in the name of International Fiduciary Corp, S.A." See Exhibit 4, paragraphs 5, 7, and 10 of Rubio affidavit.

14. In addition, the S.E.C. subpoenaed BBVA to determine whether IFC had attempted to open a bank account at BBVA. BBVA determined that IFC did indeed attempt to open an account at BBVA, but no such account was opened. See Exhibit 4, paragraph 12 of Rubio affidavit.

15. In Exhibit 5 of the December 4, 2006 Sachar Declaration, IFC stated that it “maintains the advise of George Bright, who is a former banker with the African Development Bank as a Bond underwriter.”

16. Attached hereto as Exhibit 5 is a true and correct copy of a December 8, 2006 letter submitted by the African Development Bank (“AFDB”), signed by Guy Terracol, describing the AFDB’s relationship with Mr. Bright. In Exhibit 5, Terracol states that on March 15, 1987, Mr. Bright was recruited by the AFDB as a junior professional officer. Further, Terracol states that on January 1, 1989, after completing his probationary period, Bright was appointed Associate Finance Officer in the Treasury Department.

17. Moreover, Terracol states that, on March 16, 1992, Bright was transferred to the Department of Organizations and Methods, and on October 29, 2003, Bright was dismissed from the AFDB’s service.

18. Terracol further states, “[o]n whether Mr. Bright worked as a banker and/or bond underwriter, please note that Mr. Bright’s primary duties were the preparation of a monthly statement of commitment capacity of the African Development Fund and the preparation of the voting powers and subscription of the said Fund.” Finally, Terracol adds that Mr. Bright “did carry out clerical work of project financial analysis under close supervision of professional experts but was not at all involved in bond underwriting for the AfDB.” See Exhibit 5, page 2.

19. The S.E.C. Staff recently received a telephone call from P.R.¹, an investor in IFC. P.R. told the Staff that he recently sold his house and put all the proceeds into IFC. P.R. told the Staff that he and his father have invested close to \$500,000 in IFC. P.R. told

¹ We have used initials to identify the investors we interviewed, but are happy to provide the Court with the investors’ full names upon request.

the Staff that Byer first told him about IFC. P.R. told the Staff that Byer told him Pinkett was the person in Arlington, Virginia “at the top” who organized IFC.

20. The S.E.C. Staff recently received a telephone call from W.R., an investor in IFC. W.R. told the Staff that he invested in IFC in September 2006 after his friends told him about the investment. W.R. told us that, after learning of the November 1, 2006 Order issued by the BCSC², he called Byer. W.R. told the Staff that Byer told him that the investment program was fine and legal. W.R. told the Staff that he then called GFB and faxed the bank paperwork that he had received from Byer.

21. Based on W.R.’s account, two weeks after he contacted GFB, Byer provided W.R.’s entire investment back to him. Byer told W.R. that since W.R. had been asking so many questions, it was clear that W.R. was not comfortable with the investment.

22. W.R. told the Staff that Byer told him his investment would sit in a bank account and then IFC would be able to borrow against that amount in order to buy bonds and sell them for a profit.

23. The S.E.C. Staff recently interviewed N.L., an investor in IFC. N.L. referred to the money he put into IFC as a “deposit,” and not an investment. N.L. understood that he was making a deposit at United Bank in Arlington, Virginia and then “[IFC] got somebody to do the trading.”

24. N.L. told us that he invested \$200,000 initially and, since then, put in “a bit more.” N.L. told us that he has received his promised returns from IFC.

25. Based on a review of account statements for N.L.’s deposit he made into United Bank, the account, as of November 30, 2006, has approximately \$1,000 in it.

² We previously provided a copy of the BCSC Order at Exhibit 4 of the December 4, 2006 Sachar Declaration.

26. Based on our discussions with bank representatives, we understand that United Bank in Arlington, Virginia has identified and frozen, based on the Court's December 4, 2006 Order, approximately 187 bank accounts. We understand that all of these accounts are in the name of IFC with Pinkett as the sole signatory on each of them. Based on our review of the account statements for each of these accounts, we understand that, as of November 30, 2006, these accounts contained approximately \$5 million.

27. We identified a business account in IFC's name at Bank of America. Based on our conversations with Bank of America, the account has approximately \$2.8 million. Based on the Court's December 4, 2006 Order, Bank of America has frozen this account.

28. Further, we identified a personal account in Pinkett's name at Bank of America. Based on our conversations with Bank of America, the account has approximately \$500,000 in it. Based on the Court's December 4, 2006 Order, Bank of America has frozen this account.

29. Moreover, we identified a personal account in Byer's name at Bank of America. Based on our conversations with Bank of America, the account has approximately \$1,000 in it. Based on the Court's December 4, 2006 Order, Bank of America has frozen this account.

30. We also identified a brokerage account in the name of IFC held at Capital Investment Services, Inc. ("CIS"), in Coral Gables, Florida. Based on the brokerage account statements, the account has a balance, as of November 30, 2006, of approximately \$880,000. Based on the Court's December 4, 2006 Order, CIS has frozen this account.

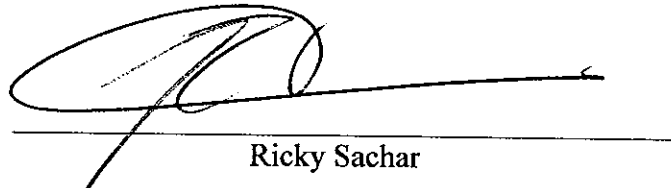
31. We also identified several accounts held at Banner Bank in Washington State that, during the period November 28, 2006 – November 30, 2006, received wires from IFC's main operating account at United Bank in Arlington, Virginia.

32. Based on our conversations with the BCSC securities regulators, an informant called the BCSC securities regulators and told them that certain promoters of IFC's investment program had created bank accounts at Banner Bank in Washington State in order to receive payment for promoting the IFC investment.

33. We sent Banner Bank a copy of the Court's December 4, 2006 Order and alerted it to these accounts. Banner Bank, based on its review of the Court's Order, chose to freeze these accounts. Based on our discussions with Banner Bank, we understand that these accounts have a combined balance of approximately \$200,000.

Pursuant to 28 U.S.C. §1746, I, Ricky Sachar, declare under penalty of perjury that the foregoing is true and correct.

Executed on December 11, 2006
Washington, DC


Ricky Sachar