

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA	)	DOCKET NO. 3:13cr335
	)	
v.	)	
	)	
(1) DAWN WRIGHT OLIVARES	)	<b>MOTION TO APPOINT SPECIAL</b>
(2) DANIEL OLIVARES	)	<b>MASTER</b>

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NOW COMES the United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, and moves this Court pursuant to 18 U.S.C. §§ 1956(b)(4) and 3664(d)(6) to appoint a Special Master with the powers of a federal Receiver in connection with the instant matter, and in support hereof, states:

1. On December 20, 2013, the United States filed a Bill of Information charging Defendants Dawn Wright Olivares and Daniel Olivares with conspiracy to commit securities fraud and wire fraud in violation of 18 U.S.C. § 371. Additionally, Dawn Wright Olivares was charged with conspiracy to commit tax fraud in violation of 18 U.S.C. § 371. Plea agreements with each defendant were filed the same day. In sum, the defendants participated in a massive Ponzi scheme involving an internet based penny auction business named Zeekler and its purported advertising division named ZeekRewards from 2010 through 2012. According to the Bill of Information, Zeekler and ZeekRewards were owned and operated by co-conspirator P.B. through Rex Venture Group, LLC (RVG).

2. The co-conspirators supposedly shared 50% of the daily net profits of Zeekler with the victim-investors through ZeekRewards. In truth and fact, the “daily net profit” was not half the net retail profit of Zeekler and had no relationship at all to actual penny auction revenues

or retail profits. Rather, the co-conspirators simply made up the “daily net profit” without any reference at all to retail sales. As a result of the scheme and artifice to defraud, victims worldwide, including at least 1,500 in the Charlotte, NC area, sustained losses of at least \$750 million.

3. On August 17, 2012, the Securities and Exchange Commission filed a civil action - *Securities and Exchange Commission v. Rex Ventures Group, LLC d/b/a ZeekRewards.com and Paul Burks*, Civil Action No. 3:12 cv 519 (the “SEC Action”) – in the United States District Court for the Western District of North Carolina. The SEC Action sought to halt the Ponzi and pyramid scheme, freeze Rex Venture Group’s (RVG) assets, and appoint a receiver for RVG.

4. On the same date, in an Agreed Order Appointing Temporary Receiver and Freezing Assets of Rex Venture Group, LLC (the “Agreed Order”) Judge Graham C. Mullen appointed Kenneth D. Bell as the Receiver for and over the assets, rights, and all other interests of the estate of Rex Venture Group, LLC, d/b/a ZeekRewards.com and its subsidiaries and any businesses or business names under which it does business (the “Receivership Entities”).

5. To fashion a restitution order, this Court must determine, among other things, (a) *which* entities and individuals are properly considered “victims” pursuant to 18 U.S.C. § 3663A(a)(2); (b) the proper *amount* of restitution owed to each victim pursuant to 18 U.S.C. §§ 3663A(b) and 3664(e); and (c) an appropriate payment schedule pursuant to, among other sections, 18 U.S.C. § 3664(i).

6. Complicated issues are likely to arise in determining an appropriate restitution order because, among other reasons: (a) the number of victims will likely exceed 800,000

individuals worldwide; and b) some *prima facie* “investors” are properly considered co-conspirators rather than “victims” for purposes of 18 U.S.C. § 3663A.

7. The Receiver already is tasked with many of the duties that the Receiver would undertake as Special Master to this Court with the powers of a Receiver pursuant to 18 U.S.C. § 3664(e)(6) such as notifying victims of the fraud, properly identifying and resolving the claims of the fraud victims and accounting for and disposing of the assets owned and controlled by the Receivership entities.

8. The Receiver has marshaled total assets of approximately \$325.1 million during the period August 17 through June 30, 2012. The Receiver has initiated a claims process designed to identify and provide restitution to victims of the scheme. Pursuant to the Court’s review and approval, the Receiver implemented an electronic noticing procedure and online claims submission process. The claims filing period opened on May 15, 2013 and closed on September 5, 2013. On October 22, 2013, the time period for filing a claim was extended by the Court for a small number of potential claimants to December 1, 2013.

9. In summary, many of the duties and tasks that the Receiver has already completed or is tasked with completing are the same duties and tasks that this Court, the Probation Office, and the Government will also have to complete in the criminal case. Accordingly, resources could be most effectively used if the Receiver was appointed as a Special Master in this action.

10. For example, the Receiver maintains an internet web site at [www.zeekrewardsreceivership.com](http://www.zeekrewardsreceivership.com) which provides details of the claims process as well as information about the Receiver’s activities and the ongoing SEC Action. Much of the information that the Receiver provides to the victims in regard to the ongoing SEC Action and

claims process would be the same information that the Government and the Probation Office would provide to victims in this criminal action. Because there are victims who are difficult to identify pursuant to 18 U.S.C. § 3771(d)(2), it would conserve the resources of this Court, the Probation Office, and the Government, for the Receiver, who as Special Master will assist in determining which persons and entities are victims, and is, or will be, contacting victims, to be tasked as Special Master with notifying victims pursuant to 18 U.S.C. §§ 3771(b)(1) and 3771(c)(1).

11. Further, it would conserve the resources of this Court, the Probation Office, and the Government for the Receiver to be appointed as Special Master to **resolve victim and restitution issues** and make recommendations on a final restitution list in this case – especially given that the Receiver already is tasked with resolving substantially overlapping issues.

12. Further, because the Receiver already is obligated to properly identify and resolve the claims of the victims of the fraud, it would conserve the resources of this Court, the Probation Office, and the Government, for the Receiver under the supervision and guidance of the Court to receive and dispose of all restitution monies paid by Defendant in this matter. Disbursing restitution via the Receiver could substantially reduce any undue burden placed on the Clerk of Court.

13. Other courts have approved of appointing Receivers and have given them responsibilities similar to those being requested for the Receiver in his capacity as Special Master. *E.g. United States v. Anderson*, 993 F.2d 1435, 1437 (9th Cir. 1993) (defendant ordered to pay restitution to state-appointed receiver on behalf of investors); *United States v. Moreland*, 509 F.3d 1201, 1207 (9th Cir. 2007) (receiver ordered to identify victims and amounts of losses

for restitution); *F.D.I.C. v. Dover*, 453 F.3d 710, 711 (6th Cir. 2006) (restitution ordered to be paid to the Clerk for disbursement to the receiver for the victim).

14. Defendants Dawn Wright Olivares and Daniel Olivares do not oppose this motion.

15. The Receiver is willing to serve as Special Master as outlined herein and in a manner consistent with the duties assigned to the Receiver in the SEC Action.

### **CONCLUSION**

For the aforementioned reasons, the Government respectfully requests that the Court appoint the Receiver as a Special Master in the instant action to (1) identify victims; (2) provide notification to such victims pursuant to 18 U.S.C. §§ 3771(b)(1) and 3771(c)(1); (3) fashion a proposed restitution order; and (4) receive restitution payments for appropriate distribution to victims in accordance with the Court's restitution order.

Respectfully submitted this 20th day of December 2013.

FOR THE UNITED STATES:

ANNE M. TOMPKINS  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20th day of December 2013, the foregoing document was served electronically through ECF filing upon Defendants at the following addresses:

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I hereby certify that this was sent via electronic mail to Kenneth D. Bell at [KBell@mcguirewoods.com](mailto:KBell@mcguirewoods.com).

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THIS MATTER is before the Court on the joint motion of the parties to appoint a Special Master pursuant to 18 U.S.C. § 3664(d)(6). For the reasons stated in the joint motion, and for good cause found, the motion is GRANTED.

IT IS ORDERED that Kenneth D. Bell be appointed Special Master in the instant action to submit proposed findings of fact and recommendations to the Court and to otherwise serve as directed below;

IT IS FURTHER ORDERED that the Special Master fashion a proposed restitution order and recommend findings to the Court on the following issues: (a) which entities and individuals are properly considered “victims” pursuant to 18 U.S.C. § 3663A(a)(2); (b) the proper amount of restitution owed to each victim pursuant to 18 U.S.C. §§ 3663A(b) and 3664(e); and (c) an appropriate payment schedule pursuant to, among other sections, 18 U.S.C. § 3664(i); as well as other issues that may arise under 18 U.S.C. §§ 3663, 3663A, or 3664, and as may be ordered by the Court;

IT IS FURTHER ORDERED that the Special Master notify identified victims as required by 18 U.S.C. §§ 3771(b)(1) and 3771(c)(1);

IT IS FURTHER ORDERED that the Special Master receive restitution payments and use such payments to make appropriate distribution to victims, to be reimbursed for costs and expenses, and to be appropriately compensated.

IT IS FURTHER ORDERED that the Special Master's responsibilities and powers under this Order are intended to complement and work in harmony with the Special Master's duties and powers as court-appointed Receiver in the case of *Securities and Exchange Commission v. Rex Ventures Group, LLC d/b/a ZeekRewards.com and Paul Burks*, Civil Action No. 3:12 cv 519 in the United States District Court for the Western District of North Carolina.

This \_\_\_ day of December 2013.

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UNITED STATES DISTRICT JUDGE