

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 13-18620 CA 13

CHIRAG AMIN,

Plaintiff,

vs.

GIGNESH MOVALIA and
OM GLOBAL INVESTMENT FUND LLC,

Defendants.

**NOTICE OF FILING NINTH
REPORT OF CORPORATE MONITOR**

James D. Sallah, not individually but solely in his capacity as the court-appointed Corporate Monitor (the "Corporate Monitor") for Defendant OM Global Investment Fund LLC and OM Global LP, hereby files his Ninth Report of Corporate Monitor.

Dated: April 29, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Florida Courts e-Filing Portal on this 29th day of April, 2015, upon Chirag Amin, Gignesh Movalia, and Gary Klein, Esq., The Klein Law Group, 7832 Red Mahogany Road, Boynton Beach, Florida 33437.

s:/ Patrick J. Rengstl, Esq.
Patrick J. Rengstl

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NINTH REPORT OF CORPORATE MONITOR JAMES D. SALLAH

Pursuant to Paragraph Nos. 45 and 46 of Section XVII of the Agreed Order Granting Plaintiff's Unopposed Motion for Appointment of Corporate Monitor dated May 29, 2013 and the Agreed Order Granting the Corporate Monitor's Emergency Motion to Expand Corporate Monitorship over OM Global LP dated August 17, 2013, James D. Sallah, not individually but solely in his capacity as the Court-appointed corporate monitor (the "Corporate Monitor") for OM Global Investment Fund LLC and OM Global LP (collectively, "OM Global"), submits the following Ninth Report. The purpose of this Report is to advise the Court and other interested parties as to the actions that I have taken since my Eighth Report dated January 29, 2015.

I. Second Distribution

On February 13, 2015, I filed my Motion for Second Distribution, which the Court granted on March 4, 2015. The second interim distribution was in the amount of \$1 million to investors with "allowed claims." The rate of return for the second distribution was approximately 7% back to investors with "allowed claims." Therefore, after making the second distribution, investors of

OM Global Investment Fund LLC with “allowed claims” have received approximately 21% of their principal investment back (the first distribution of \$2,250,000 in 2014 yielded a return of 14%).¹ Therefore, since my appointment, I have distributed over \$3.3 million to investors after initially starting this proceeding with approximately \$2.5 million that I secured.

I have signed and mailed nearly all second distribution checks to allowed investors, and will be signing and mailing the few remaining checks in the next two weeks. Second distribution checks must be cashed within 180 calendar days, absent which the check will be voided, the uncashed checks will be deemed “unclaimed funds” available for distribution to other investors, and the claim may be deemed expunged and waived. I also provided a copy of the Motion for Second Distribution on all claimants and a cover letter explaining in “plain English” the distribution procedure, so the claimants understand what to do and how to do it. Moreover, I updated the claimants by posting the filing on the monitorship website (www.om-monitor.com), as well as updating the “Recent News” section of the website regarding the filing (I have previously updated investors, on a repeated basis, by posting on the website relevant filings, posting letters to investors, and updating the “Recent News” section).

A. Disputed Claims

There were several claimants who submitted claims to which I objected in my Motion for First Distribution. These claimants had the right to respond in writing within 45 days and disagree with my objection to, or recommended disposition of, their claim. At that point, such claims would become “disputed claims,” after which the claimant and I would have 90 days to resolve such

¹ There was no second distribution, as of this time, to investors of OM Global LP (the other entity subject to the monitorship) with “allowed claims.” There are only two claimants of OM Global LP, both of whom had “allowed claims.” I previously made a Court-approved first distribution of approximately \$61,000 to the two OM Global LP claimants, which represented a return of approximately 35% of their funds.

“disputed claims.” I served on such claimants my objection with a self-explanatory cover letter explaining the procedure.

I was able to resolve objections with the majority of claimants who submitted claims to which I objected. Most objections were resolved by the claimant providing the necessary bank records supporting his/her claim, providing a copy of his/her driver’s license, or agreeing to my proposed claim amount. These claimants were included as “allowed claims” in the updated Allowed Claims Matrix (Exhibit A to the Motion for Second Distribution).

However, there were some remaining claimants who, despite my objection to their claim, never responded to or formally contested my objection to, or recommended disposition of, their claim. As such, there were no “disputed claims.” These claimants who, despite my objection to their claim, never contested in writing my objection to completely disallow their claim have a “disallowed claim,” as discussed below.

B. Disallowed Claims

If I objected to paying a claim and that claimant did not respond to my objection, the objection was deemed sustained and the claim denied. The previously-approved procedure through Court Order was the following:

The holders of claims to which the Corporate Monitor has objected, in whole or in part, and/or counterclaimed, will have forty-five (45) calendar days from the date of service of the objections and/or counterclaims within which to cure the deficiency and/or to respond to the Corporate Monitor in writing. . . . If a claimant responds and does not adequately cure, the claimant’s claim will be subject to the Objection Procedure as a “disputed claim.” If a claimant does not respond within the time provided, the Corporate Monitor’s objections and/or counterclaims will be deemed sustained and adjudicated with prejudice, and the claim will be treated in accordance with the Corporate Monitor’s objections and/or counterclaims.²

² “Disallowed claims,” therefore, include the claimants who did not timely respond to my objection, and whose claims should be disallowed in accordance with my recommended treatment in the objection.

Because I objected to paying certain claims and because these claimants did not respond in writing to my objection, the objection has been deemed sustained and the claims deemed denied. These claims are called “disallowed claims.” The “disallowed claims,” which were listed in the Disallowed Claims Matrix attached as Exhibit B to the Motion for Second Distribution, were formally disallowed by Court Order on March 4, 2015.

C. Late Claims

I received some additional claims after filing my Motion for First Distribution. I designated these as “late claims.” In total, I received only two late claims, which I analyzed. The Court-approved claims procedure permitted me to address late claims on a case-by-case basis, using my discretion.

I recommended to allow the two late claims, which was reflected in the Late Claims Matrix attached as Exhibit C to the Motion for Second Distribution. I was able to issue distribution checks – as part of the first distribution – to the two late claimants with “allowed claims,” as described in the Late Claims Matrix, because there was enough money in reserve from the “disallowed claims” from the first distribution. For example, the claim amounts for “disallowed claims” totaled \$1,563,659.85, so that amount remained to pay the late claimants with “allowed claims” (there was only \$15,000 in “allowed” late claims). This surplus permitted me in the Motion for Second Distribution to make a “catch-up” first distribution to the two late claimants with “allowed claims” pursuant to the formula from the first distribution. The late claims were formally allowed by Court Order on March 4, 2015, which allowed me to make a first interim distribution to the two late claimants with “allowed claims,” according to the formula from the first distribution and according to the claim amounts in the Late Claims Matrix (Exhibit C). As such, no claims were rejected because they were late.

D. Second Distribution for Allowed Claims, Including Late Claims

As stated above, I moved for permission and have made a second interim distribution of \$1 million to claimants with “allowed claims” in the updated Allowed Claims Matrix (Exhibit A) and the Late Claims Matrix (Exhibit C), according to their respective authorized claim amounts and based on the procedures previously approved by the Court.

I was previously authorized to make distributions on a pro-rata³ basis based on the investor’s or creditor’s proportionate share of the total amounts invested by or owed to all investors and creditors in OM Global. The claim amount for each investor was a *net* claim amount, which represents all amounts invested by that investor subtracted by all amounts received by that investor outside of this proceeding.

At the same time, I determined the total dollar amount of all investments into, and other claims against, OM Global Investment Fund LLC (the “Investment Claim Total”). For purposes of the second distribution, the Investment Claim Total was \$14,201,001.09.⁴ It was a different amount, and less, than the Investment Claim Total for the first distribution (which was \$15,907,872.02), because: (1) the “disallowed claims” were removed (which reduced the number); (2) certain claimants with claims to which I objected agreed with my proposed claim amount (which, in most instances, reduced the number); and (3) the late claims were included (which increased the number). Like the first distribution, I determined a percentage that corresponds to

³ “Pro-rata” means that each claimant with an allowed claim receives a distribution, the amount of which is calculated as follows: the amount to be distributed to all claimants (*i.e.*, \$1 million) multiplied by a fraction, the numerator of which is the amount of the claimant’s allowed claim and the denominator of which is the total of all claims.

⁴ I calculated this number by adding the total claim amounts in Exhibits A and C (*i.e.*, \$14,186,001.09 + \$15,000.00 = \$14,201,001.09).

each investor's share of the Investment Claim Total (the "Investment Claim Percentage").⁵

Each "allowed" claimant received a fixed percentage of his/her "allowed claim" from the distribution amount, based on the following formula: the amount of the net "allowed claim" divided by the total amount of claims multiplied by the distribution amount.

The updated Allowed Claims Matrix and Late Claims Matrix listed each claimant's name in alphabetical order. The Matrices did not list any pending objections because all other objections were previously resolved and/or deemed sustained as a matter of law after expiration of the cure period.

I will evaluate a potential third distribution later this year.

II. Lawsuits

As stated previously, one of my duties as Corporate Monitor is to file claims against individuals who profited from the OM Global hedge fund or received improper transfers from the fund, so more funds are available to help repay investors who were not as fortunate as those who received transfers. In fact, Movalia returned nearly \$7 million in redemptions to many very fortunate investors. These very fortunate investors should not have received the amount of return they received because: (1) as of the month of the redemptions, the commingled fund had suffered severe losses; and (2) there was no Facebook stock to redeem, given that Movalia had sold all Facebook stock by the end of 2012. Many of the returns ranged from 80%-100% of the principal investment, and at least one return was actually more than the principal investment.

The investors who received redemptions were very fortunate because they received most or all of their investment back, whereas the majority of investors did not receive any redemption

⁵ For example, if the Investment Claim Total was \$50 million, and John Smith invested \$5 million, then John Smith's Investment Claim Percentage would be 10% of the Investment Claim Total.

at all. Therefore, it is only fair that certain investors who received redemptions return a portion of their redemption so that less fortunate investors who previously received nothing may be able to receive a larger return from me. Therefore, I filed several lawsuits against investors who received redemptions of approximately \$100,000, at a minimum.⁶

As stated in my prior Reports, I have settled many of the initial investor lawsuits. For the next several months, this proceeding will be primarily focused on litigating and/or settling the remaining lawsuits, analyzing potential new lawsuits against targets and filing potential new lawsuits. All recoveries will increase the amount of future distributions. The previously-filed lawsuits are described below.

A. *James D. Sallah, Corporate Monitor v. Ajay Mehta, Case No. 2013-034295*

The basis for this investor lawsuit was discussed in my Seventh Report. I settled this matter for \$62,500, have received the settlement funds, and therefore have dismissed the case. Because Ajay Mehta received a pure profit from OM Global (*i.e.*, an amount beyond his principal investment amount), I moved for approval of the settlement agreement before the Court, which the Court approved.

B. *James D. Sallah, Corporate Monitor v. Fahrenheit Venture Fund LLC, Case No. 2014-12000*

As stated in my Seventh Report, I settled this matter, have received the settlement funds and therefore have dismissed the case. Because the case involved reimbursement of an amount less than Fahrenheit Venture Fund LLC's principal investment amount, I did not need to file a formal motion for approval of the settlement agreement. I will report the settlement amount in a

⁶ To maximize recoveries for investors, I am currently evaluating new demands and lawsuits against investors who received redemptions less than \$100,000.

future report after the other cases are resolved. The basis for this investor lawsuit was discussed in my Seventh Report.

C. James D. Sallah, Corporate Monitor v. Paresh Patel, Case No. 2014-12946

Likewise, I settled this matter, have received the settlement funds and therefore have dismissed the case. Because the case involved reimbursement of an amount less than Paresh Patel's principal investment amount, I did not need to file a formal motion for approval of the settlement agreement. I will report the settlement amount in a future report after the other cases are resolved. Again, the basis for this investor lawsuit was discussed in my Seventh Report.

D. James D. Sallah, Corporate Monitor v. Jagdish Gandhi, Case No. 2014-12965

Similarly, I settled this matter, have received the settlement funds and therefore have dismissed the case. Because the case involved reimbursement of an amount less than Jagdish Gandhi's principal investment amount, I did not need to file a formal motion for approval of the settlement agreement. I will report the settlement amount in a future report after the other cases are resolved. The basis for this investor lawsuit was discussed in my Seventh Report.

E. James D. Sallah, Corporate Monitor v. Ankur Patel, Case No. 2014-12970

I settled this matter, have received the settlement funds and therefore have dismissed the case. Because the case involved reimbursement of an amount less than Ankur Patel's principal investment amount, I did not need to file a formal motion for approval of the settlement agreement. I will report the settlement amount in a future report after the other cases are resolved. The basis for this investor lawsuit was discussed in my Seventh Report.

F. James D. Sallah, Corporate Monitor v. Umad Ahmad, Case No. 2014-12975

I sued investor Umad Ahmad ("Ahmad") in Miami-Dade Circuit Court for fraudulent transfer, conversion, and unjust enrichment. Ahmad invested \$135,000 in OM Global and received a redemption of \$132,300. Ahmad knew or should have known that Movalia was running a Ponzi

scheme or, at a minimum, had doubts about the ways in which Movalia was conducting the fund. For example, Ahmad knew or should have known his redemption was improper. Ahmad's redemption price was \$30.87 per FB share. However, he received his redemption on March 21, 2013. The high for FB that day was \$26.11 (which is obviously less than the \$30.87 he received). Therefore, Ahmad knew or should have known his redemption was improper.

The Honorable Jorge Cueto was assigned the case. However, I moved to transfer the case to the Judge presiding over the Monitor Action, to which Ahmad agreed. I also provided several extensions to respond to the complaint, so the parties could discuss a potential resolution. However, the parties were unsuccessful with preliminary settlement talks.

Ahmad has moved to dismiss the case on the bases that jurisdiction exists in Texas (not Florida) and on the merits of the three claims for fraudulent transfer, unjust enrichment and conversion. I will be responding, and a hearing will be scheduled. I have also begun discovery, have received records in response to my request for production, and will be scheduling relevant depositions.

G. James D. Sallah, Corporate Monitor v. Chhatrala Group LLC and Columbia Downtown LLC, Case No. 2013-032157

As stated previously, I had been negotiating a settlement with loan payors Chhatrala Group LLC and related entity Columbia Downtown LLC (collectively, "Chhatrala"). The settlement discussions arose from a \$930,000 outstanding loan. I previously served a final demand letter on Chhatrala. However, Chhatrala ignored my demand, so I filed a lawsuit against it in Miami-Dade Circuit Court. Chhatrala failed to respond to the complaint by the deadline, so I moved for a default and final default judgment. On December 18, 2013, the Court issued a Default and Final Default Judgment against Chhatrala for \$992,087.90.

As of February 2014, Chhatrala had agreed in principle to all material terms of a settlement,

and I provided a settlement agreement for signature. I patiently waited for a counter-signature. However, Chhatrala ultimately never signed the settlement agreement. Therefore, I retained California counsel to take the necessary actions to collect the Judgment against Chhatrala (which is based in California). My California counsel domesticated the Florida Judgment in California, after which Chhatrala had 30 days to respond.

In response, Chhatrala retained its own California counsel and moved to vacate the Judgment in California State Court on the basis that service of process was defective by the process server in the Florida action. I, through California counsel, responded that service was, indeed, proper. The parties signed a stipulation that the California ruling would be binding on the service issue in Florida. A hearing occurred on September 12, 2014 in California. However, the California Court granted Chhatrala's Motion to Vacate, after which, and pursuant to the stipulation, I submitted an Order for the Florida Court to vacate the Default and Final Default Judgment against Chhatrala. The Court issued the Order, and the Florida action re-started.

I obtained service of process on Chhatrala. In response, Chhatrala moved to dismiss the case on the bases of lack of personal jurisdiction, forum non conveniens, failure to join an indispensable party, and lack of authority to sign the promissory note. I will be responding, and a hearing will be scheduled. I have also begun discovery, will be receiving records in response to my requests for production, and will be scheduling relevant depositions.⁷

H. *James D. Sallah, Corporate Monitor v. Hemal Dubal*, Case No. 2014-22899-CA-01

On or about September 4, 2014, I sued Hemal Dubal ("Dubal") for breach of her promissory note for monies borrowed from OM Global Investment Fund LLC. Specifically, Dubal

⁷ I also moved to transfer the case to the Judge presiding over the Monitor Action, to which Chhatrala agreed.

signed at least one promissory note or “loan” with OM Global Investment Fund LLC, and, at present, one such “loan” is outstanding. The monies that Dubal received from OM Global Investment Fund LLC were derived from investor funds and must be returned to OM Global Investment Fund LLC’s investors. The outstanding promissory note is dated May 1, 2012, with a loan amount of \$331,474.88 from OM Global Investment Fund LLC to Dubal (the “Note”). To date, Dubal has paid only \$57,677.34 in outstanding interest payments, leaving an outstanding balance at the date of filing of approximately \$316,835.77, inclusive of interest. The Note requires that Dubal make sixty (60) monthly payments of \$6,408.34. Dubal made several payments on the Note, but has not made a payment since February 28, 2013.

Dubal filed her Motion to Dismiss for Improper Venue, or Alternatively, Motion to Transfer Action for Convenience. I agreed to have the lawsuit transferred to Hillsborough County. Most recently, I have begun settlement negotiations and am hopeful to resolve the lawsuit in the near future, absent which discovery will commence.

III. Preservation of Assets

A. Open Accounts and Positions

As stated in prior Reports, all trading had ceased before my appointment. Therefore, there were no open trading positions to liquidate.

B. Bank and Brokerage Accounts

As of this Report, there is over \$400,000 remaining in the OM Global Investment Fund LLC account. I will continue to attempt to increase this amount with my continued litigation efforts against the above targets and other potential targets I am evaluating suing in the future.

Regarding the OM Global LP account, there is now a zero balance after making the corrected first distribution of \$60,875.80. There may be additional deposits into that account based

on ongoing litigation efforts against at least one target previously discussed in prior Reports (*i.e.*, ZetrOz).

C. Unpaid Loans

As stated in prior Reports, OM Global extended loans to various individuals and companies totaling approximately \$3.2 million. As discussed in prior Reports, I have recovered a portion of those loans in settlements, payoffs, and/or interest payments. As stated above, I am continuing my litigation efforts against Chhatrala and Dubal for the unpaid loans.

D. Personal Items

I am continuing to investigate what personal assets may be subject to this proceeding.

IV. Forensic Accounting and Discovery

I retained KapilaMukamal (“Kapila”), which has continued to forensically analyze OM Global’s financial records.

A. Cash Reconstruction

Kapila completed a preliminary reconstruction of the cash inflows and outflows using the available banking and investment account records of OM Global and the claim forms filed by the investors (the “Cash Reconstruction”). My attorneys used the Cash Reconstruction when analyzing all of the claim forms to confirm the claim amount for each investor or creditor for purposes of the first and second distributions.

B. Tax Returns

The last federal income tax return filed by OM Global was for tax year 2010. No tax returns were filed for tax years 2011, 2012, or 2013. Kapila utilized the investor database that includes the personal identification information from the investors and the information regarding the date and amount of the investments made and any redemptions to complete the investors’ final Form K-1’s for the respective years of the hedge fund. K-1’s were mailed to investors with a cover

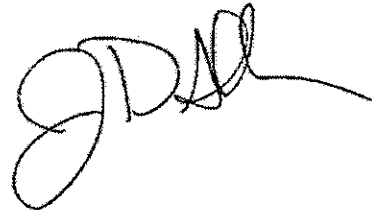
letter. Kapila also completed preparation of the Federal Income Tax Returns for tax years 2011, 2012, and 2013. Most recently, Kapila has prepared amended Federal Income Tax Returns for those years and a Federal Income Tax Return for tax year 2014. Kapila has also prepared for investors with a cover letter Form K-1's for tax year 2014.

V. Communication with Investors and Website

I continue to update the OM Global website (www.om-monitor.com) with key updates and filings.

VI. Conclusion

My investigation will be ongoing. I will continue to investigate and litigate claims against third parties. Therefore, I will supplement this Ninth Report with my Tenth Report approximately ninety (90) days from today.



James D. Sallah,
Corporate Monitor

Dated: April 29, 2015