

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO.: 08-81565-CIV-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

CREATIVE CAPITAL CONSORTIUM, LLC
A CREATIVE CAPITAL CONCEPT\$, LLC,
and GEORGE L. THEODULE,

Defendants.

**RECEIVER JONATHAN E. PERLMAN'S
MOTION FOR AUTHORITY TO SELL CERTAIN VEHICLES**

Jonathan E. Perlman, Esq., Court-appointed Receiver (the "Receiver") of Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC, (together, "Creative Capital") United Investment Club, Inc. and Reverse Auto Loan, LLC (collectively, the "Receivership Entities") by and through undersigned counsel, files this Motion for Authority to Sell Certain Vehicles (the "Motion") and moves this Court to enter an Order authorizing the Receiver to sell certain vehicles belonging to Creative Capital and hold the net proceeds thereof, in trust, for eventual distribution to creditors of the Receivership Estate.

I. INTRODUCTION

On December 29, 2008, the Securities and Exchange Commission ("SEC") filed its Complaint for Injunctive and Other Relief (the "Complaint") against the Receivership Defendants. [DE 1]. The SEC alleged that George L. Theodule ("Theodule"), through the Receivership Entities, sold unregistered securities and violated various sections of the Securities Exchange Act of 1934 (the "Exchange Act"). More specifically, the SEC alleged that all of the

Receivership Defendants violated section 10(b) of the Exchange Act.

On December 29, 2008, this Court entered a Temporary Restraining Order and Other Emergency Relief (the "TRO") against Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule. [DE 7]. Additionally, the Court entered an Order Appointing Receiver ("Receivership Order") naming Jonathan E. Perlman, Esq. as the Receiver over Creative Capital. [DE 8]. Two days later, this Court entered the First Order Expanding Receivership and expanded the scope of the receivership estate to encompass Creative Capitals' alter-ego companies United Investment Club, Inc. and Reverse Auto Loan, LLC. [DE 14].

On January 6, 2009, the Court entered an Order Granting Preliminary Injunction and Other Relief Against All Defendants on January 8, 2009 (the "Injunction Order") freezing the assets of Theodule and CCC. [DE 21].

By virtue of the Receivership Order, title to all property, real or personal, of the Receivership Entities and its principals, wherever located within or without this state, is vested by operation of law in the Receiver. The Receiver has obtained possession of certain vehicles belonging to the receivership estate. The Receiver respectfully moves that the Court enter an order authorizing the Receiver to sell certain vehicles belonging to Creative Capital.

II. FACTS SUPPORTING RELIEF REQUESTED AND INCORPORATED MEMORANDUM OF LAW

The Receivership Order provides that title to all real property of CCC and their principals shall vest with the Receiver by operation of law. In addition, the Receiver is authorized to investigate the pre-receivership affairs of the Receivership Entities and to marshal and safeguard their assets for protection and for the benefit of the investors and other creditors. [DE 8].

Through his investigation, the Receiver learned that Theodule purchased several vehicles with monies received from the Receivership Entities. In addition, Defendant Theodule has

disclosed certain vehicles as corporate assets of Creative Capital in the sworn accountings provided to the court. *See* DE 20 and DE 47-2. Consequently, on April 27, 2009, the Receiver filed his Emergency Motion to Compel George L. Theodule to Immediately Turn Over Certain Vehicles. [DE 94]. In his motion, the Receiver sought the immediate turn over of the following vehicles:

- | | | |
|----|----------------------|--------------------------------------|
| a. | 1957 Red Chevrolet | Identification Number VC57B168746 |
| b. | 1965 Red Pontiac | Identification Number 237375P309607 |
| c. | 1967 Green Ford | Identification Number 7A35C177127 |
| d. | 1972 Purple Dodge | Identification Number JH23G2B217257 |
| e. | 1969 Black Chevrolet | Identification Number 12136379G30736 |
| f. | 1932 Yellow Ford | Identification Number FLA34215 |
| g. | 1967 Blue Pontiac | Identification Number 242177B128393 |
| h. | 1966 Maroon Ford | Identification Number 6TO8T227313 |

On May 1, 2009, this Court entered its order denying the Receiver's emergency motion as moot based on the representations of Theodule's counsel that the Vehicles would be voluntarily turned over to the Receiver and/or his agents. [DE 102]. On May 5, 2009, Theodule surrendered to the Receiver three of the Vehicles which were located at his home in Snellville, Georgia. On May 13, 2009, the Receiver took possession of the additional Vehicles which were located in Jupiter, Florida.

At the Receiver's direction, all of the Vehicles were delivered to a Fort Lauderdale based licensed car dealer, Corvette Experience. Corvette Experience specializes in servicing, preparing, and selling collector cars such as the Vehicles belonging to the receivership estate. Each of the Vehicles has been appraised and will be prepared for sale by Corvette Experience

through a variety of media. The Vehicles appear to be in good condition with no major structural, frame or accident damage. Based upon the information obtained from the dealer and other reasonable assumptions, the List Price value of the Vehicles will be set at \$170,000.00 based on an appraised value of \$121,500.00.¹

The Receiver cannot expect to obtain full List Price for the Vehicles considering the depressed car market. However, the Receiver believes a fair price for the Vehicles to be within 20 percent of appraised values. Accordingly, the Vehicles will be advertised for sale at List Price with a minimum sales price of 80 percent of appraised value or \$97,200.00.

III. CONCLUSION

Based on the foregoing, the Receiver requests the Court enter an Order authorizing the Receiver to sell the Vehicles for no less than 80 percent of their appraised values. The Receiver believes that granting this Motion is in the best interest of the Receivership Estate because the Vehicles are depreciating assets and need to be sold as soon as possible for the highest possible price.

Pursuant to S.D. Fla. L.R. 7.1(A)(2), the Receiver attaches a proposed Order granting the relief requested herein.

WHEREFORE, Jonathan E. Perlman, Esq., in his capacity as Receiver of the Receivership Entities, hereby respectfully requests this Court enter an Order authorizing the Receiver to sell the Vehicles for no less than eighty percent (80%) of appraised value, pursuant to the terms and conditions set forth herein, and to grant such other relief as the Court deems just

¹ Counsel has not attached hereto the car appraisals containing a detailed list of each vehicle with its corresponding list and appraisal price in order to avoid negatively impacting the auctions for these vehicles. Instead the Receiver has referenced these values in an aggregate amount. However, the Receiver will promptly provide the detailed list to the Court for *in-camera* review at the Court's request.

and proper.

LOCAL RULE 7.1 CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1, undersigned counsel hereby certifies that she has conferred with counsel for the Securities and Exchange Commission who does not have any objection to the relief requested herein.

Dated: June 23, 2009.
Miami, Florida

Respectfully submitted,

s/Carmen Contreras-Martinez .

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record and entities identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Carmen Contreras-Martinez .
Attorney

SERVICE LIST

Securities and Exchange Commission v. Creative Capital Consortium, LLC et. al.

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**ORDER GRANTING RECEIVER JONATHAN E. PERLMAN'S
MOTION FOR AUTHORITY TO SELL CERTAIN VEHICLES**

This Cause came before the Court, without hearing, upon Receiver Jonathan E. Perlman's Motion of Authority to Sell Certain Vehicles (the "Motion"). The Court, having considered the Motion, being advised of the consent of the Securities and Exchange Commission to the entry of this Order and being otherwise fully advised in the premises, it is:

ORDERED AND ADJUDGED

1. The Motion is GRANTED.
2. The Receiver is authorized to sell the vehicles identified in the Motion for no less than eighty percent (80%) of appraised value or \$97,200.00.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this ____ day of _____, 2009.

DANIEL T. K. HURLEY
United State District Court Judge

cc: All Counsel of Record