

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

IN RE:RECEIVER FOR) Civil Action No. 8:12-cv-2078-JMC
RONNIE GENE WILSON AND)
ATLANTIC BULLION & COIN, INC.)

PETITION FOR A RULE TO SHOW CAUSE

Counsel for the Receiver, Beattie B. Ashmore, appointed by this Court most recently pursuant to a January 13, 2015 Order (“Court Order”) petitions the Court for a Rule to Show Cause why Joey Preston (“Preston”) should not be ordered to repay funds that represent ill-gotten monies of the fraudulent investment scheme orchestrated and carried out by Ronnie Gene Wilson (“Wilson”) and Atlantic Bullion & Coin, Inc. (“AB&C”). Based upon the reasons set forth below, the Receiver submits that the Court should grant the Receiver’s Petition for a Rule to Show Cause.

PROCEDURAL BACKGROUND

On July 30, 2012, Ronnie Gene Wilson (“Wilson”) and Atlantic Bullion & Coin, Inc. (“AB&C”) pled guilty to two counts of mail fraud stemming from their involvement in a criminal Ponzi scheme involving hundreds of victims and millions of dollars. *See United States v. Ronnie Gene Wilson, et al*, 8:12-cr-320-JMC. Pursuant to the Court Order and related to the above noted criminal matter, the Receiver was tasked with assuming management and control over all the financial and business affairs for a number of individuals and companies (collectively “AB&C Receivership Entities”). The Court Order

requires the Receiver, among other things, to locate and manage assets previously acquired by and/or in the name/possession of the AB&C Receivership Entities. In addition, the Court Order directs the Receiver to take whatever actions necessary for the protection of investors, including, but not limited to, noticing depositions of certain individuals and initiating actions against individuals or companies to whom monies or assets were transferred that are directly traceable to the unlawful Ponzi scheme run by Wilson and AB&C. *See* January 13, 2015 Court Order at 2-3 & 7.

FACTUAL BACKGROUND

By way of background and as it relates to Preston's connection to the fraudulent investment scheme orchestrated and effectuated by AB&C, the Receiver offers the following facts. As part of the fraudulent investment scheme, Wilson, through his company AB&C and other agents, recruited individuals to purportedly invest in the purchase and sale of silver holdings. Investors were promised high rates of returns on their investment. Some investors received substantial returns and profits through payments of ill-gotten gains from AB&C while other investors lost large sums of money.

A review of the records in the possession of the Receiver demonstrates that while Preston deposited \$192,000.00 with AB&C, he received \$1,410,000.00 in payments making his profit \$1,218,000.00. *See* Spreadsheet attached hereto as Exhibit A. Further, as set forth in the Complaint filed by the Securities Commissioner of South Carolina, Preston promoted the investment scheme orchestrated by Wilson and AB&C and was, in turn, financially rewarded.¹ *See* Complaint attached hereto as Exhibit B. The facts demonstrate that Preston

¹ The Receiver is also aware of other lawsuits pending against Preston including a collection action filed by American Express Bank FSB and a foreclosure action filed by New York Mellon Trust Company.

was rewarded financially for his direct and overt actions to promote the illegal investment scheme.

LEGAL DISCUSSION

“A Receiver may proceed summarily to recover money belonging to the receivership by petition to the appointing court for an order to show cause against a possessor not a party to the original action.” *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 458 (9th Cir. 1984). “The district court has broad powers and wide discretion to determine the appropriate relief in an equity receivership.” *SEC v. Lincoln Thrift Ass’n*, 577 F.2d 600, 606 (9th Cir. 1978). “At common law, where property has been obtained by fraud, a court in equity has jurisdiction to reach the property either in the hands of the original wrongdoer, or in the hands of any subsequent holder and to convey that property to the one who is truly and equitably entitled to the same.” *FTC v. Network Serv. Depot, Inc.*, 617 F.3d 1127, 1142 (9th Cir. 2010).

In *SEC v. Vassallo*, the United States District Court for the Eastern District of California discusses, albeit in an unpublished opinion, the concept of disgorgement in the context of a securities violation case. *See SEC v. Vassallo*, 2011 U.S. Dist. LEXIS 98418 (E.D. Ca. 2011). In so discussing, the court parallels the underlying common law equity principles that provide the foundation for disgorgement actions. Such a discussion is relevant to this petition in that the Receiver seeks to recover funds that flowed from a fraudulent investment scheme to non-parties and those non-parties have no legitimate claim to the funds. *See id.* at * 9.

As set forth above, Preston is in possession of funds that flowed directly from the illegal activity that is the subject of the underlying criminal case. Further, the records in the

possession of the Receiver indicate that the monies were transferred to Preston, or the Joey Preston Family Trust for which he benefits, and that he gave nothing of value in return and thus has no legitimate claim to the funds. Therefore, the Receiver asks the Court to issue a Rule to Show Cause why Preston should not be required to transfer back to the custody of the Receiver those funds acquired from the fraudulent investment scheme, and to immediately submit to all necessary discovery, including a deposition, and production of all relevant records and tax returns required to effectuate the relief sought herein. Should the Court order repayment of monies and such repayment is not made, the Receiver asks that its authority to conduct broad discovery remain in place until all monies are repaid.

Respectfully submitted,

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Attorneys for the Receiver

January 15, 2015
Greenville, South Carolina

EXHIBIT A

Financial Analysis Joey R. Preston Family Turst/Joey R. Preston

Bank	Account	Type	Date Posted	Date	Check No	Payee/Remitter	Money Out	Money In
Gvl First	ABC	Dep		16-Jan-09		Joey R Preston		\$138,000.00
Gvl First	ABC	Dep		21-Apr-09		Joey R Preston		\$54,000.00
Gvl First	ABC	Chk	15-Mar-10	08-Mar-10	12274	Joey Preston Family Trust	\$125,000.00	
Gvl First	ABC	Chk	21-May-10	19-May-10	12445	Joey Preston Family Trust	\$80,000.00	
Gvl First	ABC	Chk	07-Sep-10	07-Sep-10	12695	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	24-Nov-10	23-Nov-10	12906	Joey Preston Family Trust	\$100,000.00	
Gvl First	ABC	Chk	13-Jan-11	12-Jan-11	13040	Joey Preston Family Trust	\$100,000.00	
Gvl First	ABC	Chk	14-Mar-11	14-Mar-11	13206	Joey Preston Family Trust	\$75,000.00	
Cornerstone	ABC	Chk	26-Apr-11	25-Apr-11	5521	Joey Preston Family Trust	\$150,000.00	
Gvl First	ABC	Chk	02-Jun-11	31-May-11	13305	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	09-Jun-11	08-Jun-11	13306	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	19-Jul-11	18-Jul-11	13321	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	11-Aug-11	10-Aug-11	13326	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	21-Sep-11	20-Sep-11	13338	Joey Preston Family Turst	\$75,000.00	
Gvl First	ABC	Chk	21-Oct-11	20-Oct-11	13347	Joey Preston Family Trust	\$75,000.00	
Gvl First	ABC	Chk	22-Nov-11	21-Nov-11	13355	Joey Preston Family Trust	\$40,000.00	
Gvl First	ABC	Chk	02-Dec-11	02-Dec-11	13359	Joey Preston Family Trust	\$35,000.00	
Gvl First	ABC	Chk	04-Jan-12	31-Dec-11	13367	Joey Preston Family Trust	\$30,000.00	
Gvl First	ABC	Chk	18-Jan-12	17-Jan-12	13374	Joey Preston Family Trust	\$40,000.00	
Gvl First	ABC	Chk	01-Feb-12	31-Jan-12	13378	Joey Preston Family Trust	\$60,000.00	
Gvl First	ABC	Chk	27-Feb-12	27-Feb-12	13388	Joey Preston Family Trust	\$50,000.00	
Total							\$1,410,000.00	\$192,000.00

EXHIBIT B

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:)	COMPLAINT
)	
JOEY R. PRESTON,)	FILE NO. 12042
)	
_____RESPONDENT_____)	

NOTICE: RESPONDENT HAS 30 DAYS TO REQUEST A HEARING.
 RESPONDENT HAS 30 DAYS TO FILE AN ANSWER.

The Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division") alleges that the Respondent named above has engaged in acts, practices, and transactions which violate the South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101 et seq. (Supp. 2011) (the "Act") as set forth herein.

JURISDICTION

1. The Securities Commissioner of the State of South Carolina (the "Commissioner") has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

RESPONDENT

2. Respondent Joey R. Preston ("Preston" or "Respondent"), at the time of the transactions complained of, was a resident of Anderson County, South Carolina.
3. Respondent Preston's last known address is 2835 Old Williamston Road, Anderson, South Carolina 29621.

ACTIVITY

4. This administrative action arises as a result of actions taken by the above-named Respondent, as well as other persons, in connection with a long-running Ponzi scheme operated in and from the Easley, South Carolina area.
5. At the center of the Ponzi scheme was Atlantic Bullion & Coin, Inc. (“AB&C”), a South Carolina corporation controlled by Ronnie Gene Wilson (“Wilson”).
6. The Respondent, acting jointly, severally, and in concert with Wilson and AB&C, offered persons both in this State and elsewhere the opportunity to invest in silver (the “Investment”) and earn a return with no active participation or decision-making required by any individual investor.
7. Monies given by persons choosing to invest with Respondent, Wilson, and AB&C (collectively, the “Promoters”) were commingled.
8. The fortunes of the persons choosing to invest with the Promoters (the “Investors”), further, were interwoven with and dependent upon the efforts and success of the Promoters.
9. The Investment that the Promoters, including Respondent, offered to Investors and others constitute “securities” under South Carolina law.
10. The Promoters’ offers and sales of the Investment were made in this State by means of offers from this State to residents of this State and of other States.¹
11. It is unlawful to offer or sell a security in this State unless the security is registered, exempt from registration, or is a federal covered security.

¹ Pursuant to the Act, offers to sell securities are made “in this State” whether or not either party is then physically present in this state, if the offer (i) originates from within this state; or (ii) is directed by the offerer to a place in this state and received at the place to which it is directed. See S.C. Code Ann. § 35-1-610 (c).

12. The Investment the Promoters, including Respondent, offered and sold was not registered with the Division, either prior to or at any time following its offer and sale in this State.
13. The Investment the Promoters, including Respondent, offered and sold has not been the subject of any notice that was filed as to any exempt or federal covered status.
14. All persons offering and/or selling securities in this State are required to be registered with the Division as broker-dealers or agents or exempt from registration prior to their offer or sale of a security in this State.
15. The Promoters, including Respondent, were not registered with the Division as broker-dealers or agents prior to their offers and sales of the Investment in this State, and no exemption had been filed on their behalf.
16. Respondent Preston did not disclose to Investors that the Investment was not registered for sale in this State, and he did not disclose to Investors that he was not registered to sell the Investment in this State.
17. As they touted the Investment, the Promoters represented to Investors that one or more accounts would be set up to hold the Investors' silver and that such accounts would be in the individual Investors' names.
18. With the exception of four (4) Investors, whose IRA Custodian demanded custody of physical silver purchased for its clients' IRA accounts, no silver was placed in the accounts of Investors.
19. In one or more instances, no silver was ever purchased with Investor funds.
20. Respondent Preston hosted one or more "silver parties" at his home for Wilson and AB&C, where invited guests received a seminar on silver investment and at which the Investment was explained.

21. Respondent Preston also touted the Investment publicly to potential investors.
22. Though he actively solicited investments, Preston failed to conduct reasonable due diligence on the security or offering.
23. Respondent Preston did not disclose to Investors his failure to conduct reasonable due diligence on the security or offering.
24. Prior to soliciting Investors, Respondent Preston did not ask to see the silver which allegedly constituted the Investment, where it was stored, how it was transported, or other similar questions.
25. Respondent Preston did not disclose to Investors his failure to understand even the most basic facts about the Investment.
26. In connection with his participation in the Investment, Respondent Preston received commissions from Wilson and AB&C.
27. During the period March, 2010, to March, 2012, Respondent Preston received between one million, two hundred fifty thousand (\$1,250,000.00) and four million dollars (\$4,000,000.00) in cash as well as credits of what Preston indicates he believed to represent interests in real silver in the amount of approximately one million, two hundred thousand dollars (\$1,200,000.00).
28. Upon information and belief, Preston's personal investment in the scheme was less than two hundred thousand dollars (\$200,000.00).
29. Respondent Preston did not disclose his receipt of commissions to one or more Investors.
30. As an inducement to invest funds in the Investment, Respondent Preston offered personal guarantees to one or more Investors.

31. Respondent Preston failed to disclose to one or more of the Investors to whom he offered personal guarantees that he had insufficient means and/or no intent to honor the guarantees.
32. Respondent Preston personally provided AB&C account statements, on which alleged returns were listed, to one or more Investors and then, in connection with pointing out the returns, suggested one or more of those Investors invest additional monies.
33. Respondent Preston failed to disclose to one or more of the Investors described in Paragraph 32 that he anticipated being paid a commission, directly and/or through the Joey Preston Family Trust (from which he benefitted) of approximately six percent (6%) on these Investors' additional investments.

**FOR A FIRST CAUSE OF ACTION
VIOLATION OF S.C. CODE § 35-1-301
(Registration Requirements in Connection with the Offer or Sale of Securities)**

34. The Division incorporates the allegations of paragraphs 1-33 and realleges them as if set forth verbatim herein.
35. Respondent Preston, acting in concert with Wilson and AB&C, offered for sale and sold securities in this State which were not registered under the Act, exempt from registration, or federal covered securities.
36. Respondent Preston's conduct violated Section 35-1-301 of the Act.

**FOR A SECOND CAUSE OF ACTION
VIOLATION OF S.C. CODE § 35-1-402
(Agent Registration in Connection with the Offer or Sale of Securities)**

37. The Division incorporates the allegations of paragraphs 1-36 and realleges them as if set forth verbatim herein.

38. Respondent Preston, acting in concert with Wilson and AB&C, transacted securities business in and from the State of South Carolina, when he not was registered as an agent under the Act or exempt from registration.
39. Respondent Preston's conduct violated Section 35-1-402 of the Act.

**FOR A THIRD CAUSE OF ACTION
VIOLATION OF S.C. CODE § 35-1-501
(Fraud in Connection with the Offer or Sale of Securities)**

40. The Division incorporates the allegations of paragraphs 1-39 and realleges them as if set forth verbatim herein.
41. In connection with the offer or sale of securities in or from South Carolina, Respondent Preston, in concert with Wilson and AB&C, directly or indirectly (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material facts or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaged in acts, practices, or a course of business which operated as a fraud or deceit upon Investors.
42. Respondent Preston's conduct includes, but is not limited to, the following:
 - a. Respondent Preston failed to disclosed to Investors that the securities he offered for sale were not registered under the Act, exempt from registration, or federal covered securities and therefore violated Section 35-1-301 of the Act;
 - b. Respondent Preston failed to disclose to Investors that he was not registered to sell securities in this State and that offers and sales of the Investment violated of the Act;
 - c. Respondent Preston did not disclose to Investors his failure to conduct reasonable due diligence on Wilson and AB&C;

- d. Respondent Preston, on one or more occasions, failed to tell Investors that he received a commission from Wilson on funds invested with Wilson and AB&C;
- e. Respondent Preston failed to disclose to one or more Investors that the funds he solicited the Investors to place with Wilson and AB&C would not be invested in the manner Respondent Preston and Wilson and AB&C represented the funds would be invested;
- f. Respondent Preston made false and misleading statements to Investors in an effort to secure additional investments;
- g. Respondent Preston induced one or more Investors to purchase AB&C's securities by offering worthless personal guarantees of one or more Investors' principal;
- h. Respondent Preston provided false and misleading AB&C account statements to one or more Investors;
- i. Respondent Preston, on one or more occasions, provided false and misleading investment advice to Investors.

43. This conduct violated Section 35-1-501 of the Act.

PRAYER FOR RELIEF

WHEREFORE, the Division prays that the Commissioner issue an Order granting the following relief:

- A. Ordering the Respondent to permanently cease and desist from violating the Act;
- B. Ordering disgorgement by Respondent of all ill-gotten gains obtained in connection with the offers and sales to Investors of the Investments referenced in this Complaint;

- C. Imposing civil penalties on Respondent in the amount of ten thousand dollars (\$10,000.00) per violation for each violation of the Act;
- D. Temporarily and permanently barring Respondent from conducting securities business in the State of South Carolina;
- E. Temporarily and permanently enjoining Respondent from liquidating, moving, or otherwise disposing of any and all assets of and proceeds of assets of the Investors, wherever such assets may be situated;
- F. Any and all other Temporary or permanent injunctive relief as may be directed by the Commissioner; and
- G. For such other and further relief as may be just and proper under the circumstances.

FOR THE DIVISION

BY: Tracy A. Meyers

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October 23, 2012