

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**)
)
)
 Plaintiff,)
)
)
 v.)
)
 INTERNATIONAL FIDUCIARY CORP., S.A.,)
 DANIEL ERIC BYER,)
 MALCOLM CAMERON BOYD STEVENSON,)
 PRESTON DAVID PINKETT, II,)
)
 Defendants.)
)

CASE NO. 1:06cv01354-GBL

**Hon. Gerald Bruce Lee
United States District Judge**

**RECEIVER'S MOTION TO SEAL EXHIBITS
PURSUANT TO LOCAL CIVIL RULE 5
AND MEMORANDUM IN SUPPORT THEREOF**

COMES NOW Roy M. Terry, Jr., duly appointed receiver ("Receiver") for International Fiduciary Corp., S.A. ("IFC"), and files this motion pursuant to Local Civil Rule 5 for an Order authorizing the Receiver to file unredacted Exhibits to the *Receiver's Second Motion for Court Approval of Receiver's Claim Determinations*, and for the Court to seal such Exhibits in perpetuity or further order of this Court. The Exhibits are submitted under seal pursuant to Local Civil Rule 5, which provides that the documents are to be treated as sealed pending the outcome of this Motion.

MEMORANDUM OF LAW

1. On or about September 23, 2009, the Receiver filed the *Receiver's Second Motion for Court Approval of Receiver's Claim Determinations*. Although that motion did not contain

any personal identifiers, it contemplated filing an Exhibit binder that, for each of the late or disputed claims, would contain documents the Receiver and Claimant wish the Court to consider when ruling upon the claims, including: (i) the Notice of Receiver's Claim Determination, and (ii) the Proof of Claim.

2. The attached Exhibit binder, which contains the contemplated documents, contains an extensive amount of personal data identifiers, including but not limited to, personal identification numbers, dates of birth, financial account information, and home addresses. The Receiver desires that the Exhibit binder be sealed in perpetuity.

3. "The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests."

In re Knight Pub. Co., 743 F.2d 231,235 (4th Cir. 1984).

4. Federal Rule of Civil Procedure 5.2(a) provides:

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number;
- (2) the year of the individual's birth;
- (3) the minor's initials; and
- (4) the last four digits of the financial-account number.

FED. R. CIV. P. 5.2(a).

5. Federal Rule of Civil Procedure 5.2(d) provides:

(d) Filings Made Under Seal. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

FED. R. CIV. P. 5.2(d).

6. Upon information and belief, this Court has previously ordered that the identities and addresses of the victims of this fraud be sealed. *United States v. Pinkett*, No. 08-CR-437 (E.D. Va. Sept. 3, 2009)(document # 19).

7. Sealing the Exhibits will not impact the claimants, who will receive a copy of the Exhibits relevant to their specific claim, nor the only other remaining party in this case, the United States Securities and Exchange Commission, who will receive a complete unredacted copy of the Exhibits.

WHEREFORE, the Receiver respectfully prays that the Court enter an order substantially in the form attached as Exhibit A, and grant to the Receiver such other and further relief as may be just and proper.

Respectfully submitted this 6th day of October, 2009.



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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of October, 2009, a true copy of the foregoing was delivered by electronic means and/or mailed first class mail, postage fully prepaid, to the following parties:

U.S. District Court
06cv1354@vaed.uscourts.gov
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U.S. Securities and Exchange Commission
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