

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

VS.

AMERIFIRST FUNDING, INC., et al.,

Defendants.

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Civil Action No. 3:07-CV-1188-D

SEALED ORDER

ORDER APPOINTING TEMPORARY RECEIVER

Plaintiff Securities and Exchange Commission ("Commission") has applied *ex parte* for appointment of a temporary receiver for defendants AmeriFirst Funding, Inc. ("AmeriFirst Funding"), AmeriFirst Acceptance Corp. ("AmeriFirst Acceptance"), Jeffrey C. Bruteyn ("Bruteyn"), and Dennis W. Bowden ("Bowden"), and Relief Defendants American Eagle Acceptance Corp. ("American Eagle") and Hess Financial Corp. ("Hess"). It appears that this *ex parte* order appointing temporary receiver is necessary and appropriate to prevent waste and dissipation of the assets of defendants and Relief Defendants, to the detriment of investors.

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It is therefore ordered as follows:

1. The court hereby takes exclusive jurisdiction and possession of the assets, monies, securities, claims in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated, of defendants AmeriFirst Funding, AmeriFirst Acceptance, Bruteyn, and Bowden, and Relief Defendants American Eagle and Hess or any entities controlled by defendants or Relief Defendants ("Receivership Assets"), and the books and records of defendants and Relief Defendants ("Receivership Records").

2. William D. Brown, C.P.A., J.D., Weaver and Tidwell, L.L.P., 12221 Merit Drive, Suite 1400, Dallas, Texas 75251-2280, telephone number (972) 448-6966, facsimile number (972) 702-8321, is appointed temporary receiver ("Receiver") for the Receivership Assets. The Receiver must file with the clerk of court a bond in the sum of \$10,000, without need for sureties approved by the court, to assure his conscientious performance of the duties and responsibilities imposed by this order. The Receiver is hereby authorized to take and have possession of the Receivership Assets and Receivership Records. Until further court order, the Receiver shall have complete and exclusive control, possession, and custody of all Receivership Assets and Receivership Records.

3. All persons, including defendants and Relief Defendants, and their officers, agents, servants, employees, brokers, facilitators, attorneys, and all persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, and specifically including any bank or other financial or depository institution holding accounts for or on behalf of defendants and Relief Defendants, or on which defendants or Relief Defendants are signatories, shall promptly deliver to the Receiver all Receivership Assets in the possession or under the control of any one or more of them and shall promptly surrender all Receivership Records. No separate subpoena shall be required. Upon presentment of this order, all persons, including financial institutions, shall provide account balance information, transaction histories, all account records and any other Receivership Records to the Receiver or his agents, in the same manner as they would be provided were the Receiver the signatory on the account. Further, any attorney holding on behalf of any defendant or Relief Defendant, any retainer or other deposit of money or asset for legal services or any other purpose—except for representation in connection with a pending or potential criminal proceeding—shall promptly deliver such moneys or assets to the Receiver.

4. The Receiver is authorized, without breaching the peace, and with the assistance of local peace officers or the United States Marshals Service, if necessary, to enter and secure any premises, wherever located or situated, in order to take possession, custody, or control of, or to identify the location or existence of, Receivership Assets or Receivership Records, including, but not limited to, the personal residences of, and/or any other premises or real property owned, controlled or possessed by Defendants and Relief Defendants, such as 6717 Lakewood Blvd., Dallas Texas, and 12248 Treeview Lane, Dallas, Texas. Entries into personal residences shall be initiated only between the hours of 9:00 a.m. and 5:00 p.m. CDT, Monday through Friday, unless a resident with authority to grant permission authorizes an entry to be initiated before or after the period allowed by this order, or authorizes an entry on a Saturday or Sunday.

5. All persons, including defendants and Relief Defendants, and their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, who receive actual notice of this order by personal service or otherwise, are enjoined from in any way interfering with the operation of the Receivership, or in any way disturbing the Receivership Assets and Receivership Records, from filing or prosecuting any actions or proceedings that involve the Receiver or that affect the Receivership Assets and Receivership Records, specifically including any proceeding initiated pursuant to the United States Bankruptcy Code, except with the court's prior permission. Any actions so authorized to determine disputes relating to Receivership Assets and Receivership Records shall be filed in this court.

6. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service to forward delivery of any mail addressed to defendants and Relief Defendants or any company or entity under the direction or control of any of the defendants and Relief Defendants, to

any Post Office box or other mail depository, to himself. Further, the Receiver is hereby authorized to open and inspect all such mail, to determine the location or identity of assets or the existence and amount of claims.

7. The Receiver is hereby authorized to make from Receivership Assets such ordinary and necessary payments, distributions, and disbursements as he deems advisable or proper for the marshaling, maintenance, or preservation of the Receivership Assets. From and after the date of entry of this order, the Receiver shall have the authority to conduct the business operations of defendants and Relief Defendants and the entities they control, including the collection of rents, note payments, and insurance premiums, or continuation and termination or any employment arrangement and the terms thereof. The Receiver shall have the authority to contact and negotiate with any creditors of defendants and Relief Defendants for the purpose of compromising or settling any claim. To this purpose, in those instances in which Receivership Assets serve as collateral to secured creditors, the Receiver may surrender such assets to secured creditors, and shall have the authority to make such surrender conditional upon the waiver of any deficiency of collateral. Furthermore, the Receiver is authorized to renew, cancel, terminate, or otherwise adjust any agreements to which any of these defendants and Relief Defendants is a party.

8. The Receiver is hereby directed to file with the court and serve upon the parties, within 21 days after entry of this order (or, on the Receiver's request and for cause shown, at a later date), a preliminary report setting out the identity, location, and value of the Receivership Assets, any liabilities pertaining thereto, and any assets of the defendants and Relief Defendants beyond the value of the assets received from defendants in the course of the events made the basis of this action. Further, at the time the Receiver makes such report, he shall recommend to the court whether, in his

opinion, based on his initial investigation, claims against defendants and Relief Defendants should be adjudged in the Bankruptcy Court. After providing the parties an opportunity to be heard, this Court will determine whether to accept the Receiver's recommendation and, if appropriate, issue an order authorizing the Receiver to commence a bankruptcy proceeding.

9. This order does not prohibit the prosecution of any civil action or other proceeding against defendants or Relief Defendants, including non-dischargeability proceedings and enforcement of any judgments obtained in such actions or proceedings, or effect the release of any claim asserted therein. However, to the extent judgment creditors or other claimants seek to prosecute an action or proceeding against defendants or Relief Defendants or to satisfy a judgment or claim from Receivership Assets, they may do so only with the prior permission of this court or the United States Bankruptcy Court, if the Receiver recommends, and the court approves, commencement of such a proceeding, and in accordance with an order of priority established by a plan of liquidation and distribution, or any automatic or other stay provided under the Bankruptcy Code.

10. The Receiver is hereby authorized to employ such employees, accountants, attorneys, and others as are necessary and proper for the collection, preservation, maintenance, and operation of the Receivership Assets and Receivership Records.

11. The Receiver is hereby authorized to receive and collect any and all sums of money due or owing to defendants or Relief Defendants, whether the same are now due or shall hereafter become due and payable, and is authorized to incur such expenses and make such disbursements as are necessary and proper for the collection, preservation, maintenance, and operation of the Receivership Assets.

12. The Receiver is hereby authorized to institute, defend, compromise, or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds therefrom, and, with the court's permission, to institute, prosecute, compromise, or adjust such actions or proceedings in state or federal court as may in his judgment be necessary or proper for the collection, preservation, and maintenance of the Receivership Assets.

13. With the court's permission, the Receiver is hereby authorized to institute actions or proceedings to impose a constructive trust, and to obtain possession and/or recover judgment with respect to persons or entities who received assets or funds traceable to investor monies. All such actions shall be filed in this court.

14. At the Receiver's request, the United States Marshals Service is hereby to assist the Receiver in carrying out his duties to take possession, custody, or control of, or identify the location of, any Receivership Assets or Receivership Records. The Receiver is authorized to remove any person from any premises or real estate constituting a Receivership Asset who attempts to interfere with the Receiver, his attorneys, or his agents in the performance of their duties. The Receiver is also authorized to change any locks or other security mechanisms with respect to any premises or other assets that constitute Receivership Assets.

15. The Receiver shall keep the Commission apprised at reasonable intervals of developments concerning the operation of the receivership, and shall provide to the Commission upon request any documents under the control of the Receiver.

16. The Receiver shall file on at least a quarterly basis an application for approval of the disbursements for professional fees and expenses to himself or others. Any and all costs incurred by the Receiver shall be paid from the Receivership Assets.

II

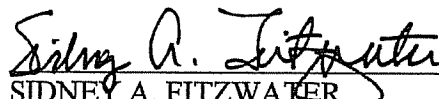
It is further ordered that the court shall retain jurisdiction of this action for all purposes. The Receiver is hereby authorized, empowered, and directed to apply to the court, with notice to the Commission and defendants AmeriFirst Funding, AmeriFirst Acceptance, Bruteyn and Bowden, and Relief Defendants American Eagle and Hess, for issuance of such other orders as may be necessary and appropriate to carry out the court's order.

III

It is further ordered that this order will remain in effect until modified by further court order.

SO ORDERED.

July 2, 2007.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE