

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
) )  
HENRY D. MCMASTER, )  
in his official capacity as the )  
SECURITIES COMMISSIONER FOR )  
THE STATE OF SOUTH CAROLINA, )  
) )  
Plaintiff, )  
) )  
-vs- )  
) )  
CAPITAL CONSORTIUM GROUP, LLC; )  
3 HEBREW BOYS, LLC; TONY POUGH )  
a/k/a TONY BERNARD POUGH; TIM )  
MCQUEEN a/k/a TIMOTHY MCQUEEN; )  
JOSEPH BRUNSON a/k/a JOSEPH B. )  
BRUNSON; DANIEL DEVELOPMENT )  
GROUP, LLC; FIRST CITIZENS BANK )  
AND TRUST CO., INC.; )  
) )  
Defendants. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

DOCKET NO. 07-CP-40-3116

ORDER GRANTING A TEMPORARY  
INJUNCTION AGAINST DANIEL  
DEVELOPMENT GROUP, LLC.

2007 SEP 13 AM 11:18  
BARBARA A. SCOTT  
C.C.C. & G.S.  
ADMITTED TO COURT

This matter came before the Court on July 20, 2007, on a Notice of Motion and Motion for Temporary Injunction & Cease and Desist Order<sup>1</sup> Pursuant to S.C. Code Ann. § 35-1-603 ("Motion") filed by Henry D. McMaster, in his official capacity as the Securities Commissioner for the State of South Carolina ("Plaintiff").

Hemphill P. Pride II, Esquire, appeared on behalf of Daniel Development Group, LLC ("Daniel Development"). Assistant Attorneys General Warren V. Ganjehsani, Tracy A. Meyers and T. Parkin Hunter appeared on behalf of Plaintiff.

All parties were properly before the Court and were provided due notice of the hearing.

**BACKGROUND**

The Court previously issued an Order Granting Plaintiff's Motion for Temporary Injunction ("Temporary Injunction Order I") on June 25, 2007, and an Order Expanding the Temporary Injunction & Appointment of a Receiver ("Temporary Injunction Order II") on July 16, 2007, in which Capital Consortium Group, LLC ("CCG"), 3 Hebrew Boys, LLC ("3HB"),

*Handwritten initials and a circled number 1.*

<sup>1</sup> Plaintiff's Motion for Cease and Desist Order was not argued at the July 20, 2007 hearing and is not addressed herein.

Tony Pough a/k/a Tony Bernard Pough ("Pough"), Tim McQueen a/k/a Timothy McQueen ("McQueen"), and Joseph Brunson a/k/a Joseph B. Brunson ("Brunson") were enjoined from taking any action with respect to certain assets allegedly derived from the unlawful sale of unregistered securities.

Plaintiff's instant Motion seeks to expand the scope of Temporary Injunction Orders I and II (collectively, "Temporary Injunction Orders" or "Orders") to add Daniel Development to the list of entities so enjoined. Reference to the Orders is craved for a more complete recitation of the factual and procedural history of this case, and such information is incorporated by reference herein.

### **FINDINGS AND CONCLUSIONS**

The Court previously found that Plaintiff established a prima face case of securities violations committed by Defendants CCG, 3HB, Pough, McQueen and Brunson. Specifically, the Court found in Temporary Injunction Order I that

- (a) the State has put forth evidence that the investments being sold are securities under South Carolina law;
- (b) a State witness testified that Defendants are not licensed or registered to sell securities in South Carolina;
- (c) the Investments offered by Defendants are not and have never been registered for sale in or from the State of South Carolina;
- (d) irreparable harm will result if an injunction is not granted; and
- (e) Plaintiff has shown a likelihood of success on the merits.

Similarly, the Court ruled in Temporary Injunction Order II that

the totality of the circumstances demonstrates a prima facie showing of Defendants' past illegal conduct and a reasonable likelihood that Defendants will engage in future violations of securities laws. Accordingly, Plaintiff has made a proper showing for issuance of an injunction under S.C. CODE ANN. § 35-1-603.

Although Daniel Development was not yet a party at the time, there was ample sworn testimony in the hearing held before Judge J. Michelle Childs on May 31, 2007 ("May Hearing") linking Daniel Development to the unlawful activities of the other Defendants, as reflected in the following exchanges between Robb McBurney, an Enforcement Specialist employed by Plaintiff, and Assistant Attorney General Tracy A. Meyers:

- Q. Did you make any finding with respect to the proceeds in any of those [bank] accounts [of Defendants]?

*end #2*

- A. Yes. There appeared to be a pattern that matched the First Citizens bank records of large investor deposits going in that correlated with the meetings and things like that that we had – that we had heard about occurring, that as the meetings occurred it seemed that large deposits would be made.

May Hearing Transcript at 40:20 – 41:2.

- Q. Okay. Did you get – who – who - did you get account opening records for some of the [Defendants'] Bank of America Accounts?
- A. Yes.
- Q. And did you look at them?
- A. Yes.
- Q. And what did they say?
- A. The account – the account records were opened in a name of Brunson Outreach which was an organization controlled by one of the – one of the three main parties of Capital Consortium Group and 3 Hebrew Boys named Joseph Brunson.

May Hearing Transcript at 41:11-20.

- Q. Who could sign on the accounts, if you know?
- A. Joseph Brunson and Tony Bernard Pough.

May Hearing Transcript at 42:1-2.

- Q. At some point you indicated – at some point did the Bank of America accounts close?
- A. They did.
- Q. And were you able to determine where the money remaining in those accounts went at the time of the accounts' closure?
- A. Those – those accounts were closed by Bank of America. Apparently they were notified in – in March of the closure of the bank accounts, as according to the S.A.R.<sup>2</sup>, and they – there were several large transfers out of the Bank of America Accounts into the First Citizens Account.
- Q. Okay. Now I'm going to ask you to jump ahead. After you gave Sandra [Matthews] the First Citizens Bank records to analyze, did she at some point come back to you and ask you to do some follow-up information for her?
- A. Yes. There was a check to a – to a well-known real estate attorney in Columbia named Brian Boger. It was a check for 1.4 million approximately to Mr. Boger, what appeared to be a check brought to a real estate closing, something that you would bring to a real estate closing.

ad  
#3

---

<sup>2</sup> "S.A.R." is an acronym used in the banking industry for "Suspicious Activity Report."

- Q. Were you able to follow up and see if that was used for the purchase of real estate?
- A. I checked the Richland County R.M.C. Records, and they indicate that near that date deeds were filed for **real estate purchased by Daniel Development Group, which was one of Mr. Pough's entities. That was the entity that the – that the First Citizens Bank accounts were in the name of.**

May Hearing Transcript at 44:13 – 45:13 (emphasis added).

Additionally, Sandra Matthews, who is also employed by Plaintiff, provided the following testimony in response to questioning from Ms. Meyers:

- Q. I think Mr. McBurney has testified that he gave you some records from First Citizens Bank to analyze. Is that correct?
- A. Yes, he did.
- Q. What did you do with the records once you received them?
- A. He gave me account-opening documents, statements on accounts, and a number of checks and money orders that been deposited to one of those accounts. And I took those records; I analyzed the statements. I took a look at where the money came from that funded those accounts. I noted that there were several wires that were sent from those accounts. Those wires I asked Mr. McBurney to please do additional research on because I spent the majority of my time analyzing over 2600 checks and money orders that were deposited to the most active account of the First Citizens group.
- Q. Okay.
- A. **That account was in the name of Daniel Development Group and C.C.G.**

May Hearing Transcript at 48:6-23 (emphasis added).

- Q. Did you have a chance to see who the signers on the accounts were?
- A. Yes. The signers on the accounts were Tony Pough and Tim McQueen.
- Q. You said that you analyzed a good number of the deposits. Tell me again who they were made out to.
- A. Almost without exception all of the items were made out to either Capital Consortium Group or C.C.G.

May Hearing Transcript at 49:17-24.

- Q. Okay. At some point did you have occasion to learn from Mr. Robb McBurney that that number constituted an application number?
- A. Yes, I did.
- Q. Okay. After that did you have occasion to get a list from Mr. Ron King?

*and*  
#4

A. Yes, I did. I received two lists—

Q. Okay.

A. From North Carolina. They contained names. The majority of them contained a dollar amount, and they contained a piece of data that was referred to as "APP" Number. I took those two lists and using those lists went back to the individual checks and money orders that had been deposited in the First Citizens account, and I was able to find every one, a hundred percent, of those items in the deposits made to the First Citizens checking account.

May Hearing Transcript at 51:6-21.

Defendant, Daniel Development Group, objected to the use of the testimony from the hearing conducted on May 31, 2007 on the basis that it did not have the opportunity to cross examine the witnesses. A motion for a temporary injunction or a preliminary injunction need not be supported by live testimony but may be supported by affidavits. See Fuller-Ahrens Partnership v. South Carolina Dept. of Highways and Public Transp., 311 S.C. 177, 427 S.E.2d 920 (Ct. App. 1993). Affidavits are the sworn statements of a witness and are not subject to cross-examination. This Court treats the testimony of the witnesses from the May 31 hearing the same as affidavits upon which the Court may rely without providing the Defendant the opportunity to cross-examine. Defendant had an opportunity, at the hearing, to present testimony or affidavits opposing the motion. None were presented.

Accordingly, based on the testimony on May 31, 2007 and the findings set forth in the Orders previously issued in this case, I find and conclude as follows:

1. Plaintiff has established a prima facie showing that Daniel Development is a repository and/or holding company for funds and other assets obtained by Defendants CCG, 3HB, Brunson, Pough and McQueen, in whole or in part, as a result of said Defendants' unlawful offer and/or sale of unregistered securities in or from South Carolina.

2. The totality of the circumstances demonstrates a prima facie showing of Defendants' past illegal conduct and a reasonable likelihood that Defendants will engage in future violations of securities laws.

3. Accordingly, Plaintiff has made a proper showing for issuance of an injunction against Daniel Development under S.C. CODE ANN. § 35-1-603.

and  
#5

**IT IS THEREFORE ORDERED THAT:**

- (1) The Temporary Injunction Orders previously issued in this case shall be binding upon Daniel Development, which shall be enjoined from engaging in any and all acts set forth therein;
- (2) Daniel Development shall be prohibited from selling, conveying, disposing, encumbering or otherwise transferring all real property upon which Plaintiff has filed lis pendens in Richland and Orangeburg counties as of July 20, 2007; and
- (3) All orders previously entered in this case shall continue in full force and effect.
- (4) The temporary injunction shall remain in effect until the conclusion of this action or unless modified by order of the Court.

**AND IT IS SO ORDERED.**

  
ALISON RENEE LEE  
Fifth Judicial Circuit

September 13, 2007  
Columbia, South Carolina

*af*  
#6