

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: 51-2010-CA-2912-WS/G

BOTFLY L.L.C., DAVID R. LEWALSKI,  
JON J. HAMMILL, and JON J. HAMMILL, P.A.,

Defendants.

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**ORDER GRANTING RECEIVER'S MOTION SEEKING  
ENTRY OF AN ORDER (I) APPROVING THE RECEIVER'S  
ACCOUNTS AND ADMINISTRATION OF THE RECEIVERSHIP  
ESTATE, (II) DISCHARGING THE RECEIVER, (III) CANCELING THE  
RECEIVER'S BOND, AND (IV) CLOSING THE RECEIVERSHIP ESTATE AND CASE**

THIS CASE came before the Court on May 26, 2021 at 11:15 a.m. for consideration of the *Receiver's Motion Seeking Entry of an Order (I) Approving the Receiver's Accounts and Administration of the Receivership Estate, (II) Discharging the Receiver, (III) Canceling the Receiver's Bond, and (IV) Closing the Receivership Estate and Case* (the "**Motion**").<sup>1</sup> This Court, having considered the Motion, and being otherwise fully advised in the premises, makes the following findings of fact:

A. The Receiver has faithfully and properly fulfilled the duties enumerated in the Order Appointing Receiver filed on April 1, 2010.

B. Pursuant to the Claims Order filed on February 24, 2012, the Receiver has obtained approval from the Court to make five interim distribution payments to the holders of Allowed

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<sup>1</sup> Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Motion.

Class 1 Claims. The Court has approved the sixth and final distribution payments to holders of Allowed Class 1 Claims.<sup>2</sup> Upon completion of the final distribution, all of the funds on hand with the Receiver will have been distributed with the exception of the Unclaimed Funds.

C. All known assets of the Receivership Entities have been reduced to cash and distributed or will be distributed upon the Final Distribution in accordance with Orders of this Court, or considered as valueless at this time or have been or will be abandoned.

D. During the course of the administration of this Receivership Estate and case, the Receiver has recovered numerous final judgments evidencing amounts owed the Receivership Estate that remain outstanding and unsatisfied (the “**Outstanding Judgments**”). The Receiver advises the Court that, with one exception, these Outstanding Judgments are currently not creating any revenue for the Receivership Estate, but could possibly provide funds available for distribution to the Class 1 claimants in the future. For the avoidance of doubt, notwithstanding the entry of this Order and the closing of the Receivership Estate and this case, the Outstanding Judgments are not released and remain due and owing to the Receivership Estate for administration pursuant to this Order and further orders of this Court.

E. With respect to one Outstanding Judgment, the Receiver entered into a payment and forbearance agreement with Frank Anderson with respect to a Final Consent Judgment entered against Frank Anderson on December 3, 2012 (the “**Anderson Judgment**”). While Frank Anderson has not fully performed under the payment agreement, Frank Anderson continues to irregularly pay \$100.00 per month to Dennis LeVine (“**Mr. LeVine**”), the attorney engaged by the Receiver on a contingent fee basis to collect obligations owed the Receivership Estate, including

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<sup>2</sup> After the hearing on the Motion, the Receiver reported to the Court the recovery of an additional \$64,735.00 from an Outstanding Judgment which amount, with the Court’s approval, has been included in the sixth and final distribution to Allowed Class 1 Claims.

the Anderson Judgment. Since (i) it is impractical to continue to administer the Receivership Estate for minimal and irregular recoveries, specifically defined to be recoveries that result in less than \$40,000.00 being available for distribution to Allowed Class 1 claimants (“**Post Case Closing Recoveries**”), and (ii) abandonment of even minimal recoveries, such as with respect to the Anderson Judgment, would be inappropriate, the Receiver has proposed that the Court authorize Mr. LeVine, on behalf of the Receiver and the Receivership Estate, to donate such Post Case Closing Recoveries, after payment of the collection fees, to the Florida Bar Foundation. The Receiver’s counsel conferred with the Special Counsel for Litigation for the Office of the Attorney General (the “**AG**”) and was advised that the AG would not take a position on the proposed donation solution for any Post Case Closing Recoveries, but concurred in the proposed establishment of a solution for any Post Case Closing Recoveries and approved the threshold recovery amount that must be available for distribution before the case would be reopened for further administration.

Accordingly, it is **ORDERED**:

1. The Motion is **GRANTED**.
2. The Unclaimed Funds held by the Receiver are presumed unclaimed under Chapter 717 of the Florida Statutes and the Receiver will report and deliver the Unclaimed Funds to the State of Florida, Department of Financial Services, as Florida Unclaimed Property in accordance with the process, forms and rules prescribed by the Department of Financial Services, Division of Unclaimed Property.
3. The Receiver’s proposed solution regarding the Post Closing Case Recoveries is approved and Mr. LeVine is authorized to make the donations to the Florida Bar Foundation and Mr. LeVine is directed to report to the Receiver and his counsel any future events that create the possibility of a further recovery for the holders of Allowed Class 1 Claims.

4. Within ten (10) days of the completion of the payment and distribution of (a) the final compensation, as approved by the Court, for the services of the Receiver and the Receiver's counsel, Bush Ross, P.A., (b) the Final Distribution, and (c) the delivery of any Unclaimed Funds to the State of Florida, Department of Financial Services, as Florida Unclaimed Property, the Receiver will file the Final Distribution Report.

5. Upon filing the Final Distribution Report, the Court will enter, without the necessity of any further hearing, a Final Order approving (a) the Receiver Reports and confirming the faithful account and administration of the Receivership estate, (b) discharging the Receiver from further responsibility for the Receivership estate and authorizing the Receiver to close the informational website (www.botflyreceivership.com) for information regarding the Receivership, (c) canceling the Receiver's Bond and directing the Clerk of the Circuit Court to release the surety company from any further liability, (d) closing the Receivership estate and case, and (e) retaining jurisdiction to reopen this case to permit the Receiver and his counsel to properly administer any assets of meaningful value that may be recovered after the entry of the Final Order.

**DONE AND ORDERED** in open court, New Port Richey, Pasco County, Florida on this \_\_\_\_ day of June, 2021.

Electronically Conformed 6/16/2021

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The Honorable Kimberly Sharpe Byrd  
CIRCUIT JUDGE

**Copies furnished to:**

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