

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-CV-62593-GAYLES

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

SIMPLE HEALTH PLANS LLC, et al,

Defendants.

**RECEIVER’S REPLY IN SUPPORT OF
MOTION FOR AUTHORITY TO LIQUIDATE UBS BROKERAGE ACCOUNTS**

Michael I. Goldberg, as court-appointed receiver (the “Receiver”) over defendants Simple Health Plans LLC, Health Benefits One LLC (“Health Benefits One”), Health Center Management LLC, Innovative Customer Care LLC, Simple Insurance Leads LLC, Senior Benefits One LLC, and their subsidiaries, affiliates, successors and assigns (collectively, the “Receivership Entities”) hereby files this reply in support of his Motion For Authority to Liquidate UBS Brokerage Accounts . . . (“Motion”) [ECF No. 179] and in response to Defendant Steven Dorfman’s (“Defendant”) Response in Opposition to the Motion. . . (“Opposition”) [ECF No. 188]. In support, the Receiver states as follows:

The Opposition contends that it is the Receiver’s position that there is no equity in the UBS Brokerage Accounts. Opposition at 1. To the contrary, the Receiver’s position is that there is considerable equity in the UBS Brokerage Accounts that will benefit the receivership estate and that it is sensible to take advantage of current market conditions to liquidate those accounts. The Defendant’s recitation of arguments previously considered and rejected by this Court

concerning the status of his appeal before the 11th Circuit, which to succeed must overturn well-settled 11th Circuit law, is no basis to deny the Motion. The subject accounts contain publically-traded equity securities. The markets are at, or near, their all-time high. Although no one knows whether the market will continue to rise, stay the same, or fall, the Receiver believes that the fact that the market has significantly increased over the past 6 months militates in favor of liquidating the UBS Brokerage Accounts so that the receivership estate can lock in the current value of the account. Rather than deplete the assets of the estate, as the Defendant contends, the Receiver seeks only to conserve the assets and maximize their value.

The Defendant's suggestion that, if permitted to liquidate the accounts, the Receiver should be ordered to reinvest the funds fails to appreciate the totality of the risk. While the Defendant contends that a portfolio of AAA-rated bonds is "less volatile," this statement is not entirely true under the circumstances such as here where the bonds will not be held to maturity. Although bonds are generally considered less volatile than equities, an investment in short term bonds, which would be required in this case, would subject the bonds to substantial volatility based on potential interest rate cuts. Placing funds that could go to compensate victims and creditors at risk for the possibility of continued gain would be a dereliction of the Receiver's duty and against his business judgment. Moreover, the Defendant makes no mention of the secured debt obligation that the UBS Brokerage Accounts are pledged against and the impact continuing to carry that obligation has on the value of these accounts and the overall receivership estate. While the Receiver does not claim that he is an expert on investments, it is his business judgment that it is appropriate to liquidate these accounts at this time.

WHEREFORE, the Receiver respectfully requests the entry of an Order granting the Motion.

Dated: July 19 2019

Respectfully submitted,

/s/ Naim S. Surgeon

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Court-Appointed Receiver

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this July 19, 2019 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Naim S. Surgeon
Naim S. Surgeon