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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MANAGEMENT SOLUTIONS, INC., a
Texas corporation; WENDELL A.
JACOBSON; and ALLEN R. JACOBSON,

Defendants.

**AMENDED COMPLAINT IN
INTERVENTION**

Civil No. 2:11-cv-01165

Judge Bruce S. Jenkins

B.C. Warner Investments, L.C.; Truckpro,
L.C.; SLEA 423 L.L.C.; B.C. Warner
Revocable Trust; BCW - D.O., L.L.C.;
BCW - Maui, L.L.C.; BCW - S.F. L.L.C.;
TMB Limited Company; Bart C. Warner;
James N. Warner; Jeffrey K. Wetzels; Gerald A.
Zmyslo,

Intervening Plaintiffs,

v.

JOHN A. BECKSTEAD, as Receiver for Management Solutions, Inc., and related entities and for the assets of Wendell A. Jacobson and Allen R. Jacobson,

Defendant in Intervention.

Intervening Plaintiffs B.C. Warner Investments, L.C.; Truckpro, L.C.; SLEA 423 L.L.C.; B.C. Warner Revocable Trust; BCW - D.O., L.L.C.; BCW - Maui, L.L.C.; BCW – S.F. L.L.C.; TMB Limited Company; Bart C. Warner; James N. Warner; Jeffrey K. Wetzel; and Gerald A. Zmyslo (collectively, the “Warner Parties”) allege as their Amended Complaint in Intervention in this proceeding as follows:

1. B.C. Warner Investments, L.C. is a Utah limited liability company with its principal place of business in West Valley City, Utah.
2. Truckpro, L.C. is a Utah limited liability company with its principal place of business in Salt Lake City, Utah.
3. SLEA 423 L.L.C. is a Utah limited liability company with its principal place of business in Murray, Utah.
4. B.C. Warner Revocable Trust is a revocable trust.
5. BCW - D.O., L.L.C. is a Utah limited liability company with its principal place of business in West Valley City, Utah.
6. BCW - Maui, L.L.C. is a Utah limited liability company with its principal place of business in West Valley City, Utah.

7. BCW - S.F. L.L.C. is a Utah limited liability company with its principal place of business in West Valley City, Utah.

8. TMB Limited Company is a Utah limited liability company with its principal place of business in Salt Lake City, Utah.

9. Bart C. Warner is an individual who resides in Salt Lake County, Utah.

10. James N. Warner is an individual who resides in Salt Lake County, Utah.

11. Jeffrey K. Wetzel is an individual who resides in Salt Lake County, Utah.

12. Gerald A. Zmyslo is an individual who resides in Salt Lake County, Utah.

13. Plaintiff SEC is a governmental entity organized and existing under the laws of the United States of America.

14. Defendant Management Solutions, Inc. (“MSI”) is a Texas corporation with its principal place of business in Fountain Green, Utah.

15. Defendant Wendell A. Jacobson is a resident of Fountain Green, Utah. He is the sole owner of MSI and is the founder and controlling principal of numerous entities that own assets at issue in this matter.

16. Defendant Allen R. Jacobson is a resident of Fountain Green, Utah. Allen is the son of Defendant Wendell A. Jacobson and, at times relevant to allegations herein, acted as an agent of MSI.

17. Defendant in Intervention John A. Beckstead (“Receiver”) is the court-appointed Receiver for MSI and related entities and for the assets of Wendell A. Jacobson and Allen R. Jacobson.

18. Consistent with Rule 8(a)(1) of the Federal Rules of Civil Procedure, the Court has already exercised jurisdiction over this matter, and this complaint in intervention does not require additional jurisdictional support.

19. For approximately 25 years, Wendell Jacobson was been in the business of purchasing, renovating, managing and reselling multi-unit condominium complexes.

20. Wendell Jacobson's operation was conducted under the umbrella of MSI. MSI's stated goal was to identify multi-family apartment communities with low occupancy rates and, by rehabilitating them and improving their on-site management, increase their occupancy, their rent collections rate, and ultimately their resale value. Wendell Jacobson, Allen Jacobson, MSI, and their affiliated entities (the "Jacobsons") sought to resell the apartment complexes at a substantial profit within three to five years.

21. The Jacobsons and their affiliated entities solicited investors to invest in their business operation by, among other things, purchasing equity ownership interests in limited liability companies controlled by the Jacobsons, purchasing tenancy in common interests in apartment properties, and loaning money to the Jacobsons.

22. At relevant times, Wendell and Allen Jacobson were acting as unregistered brokers in connection with their offers and sales of membership interests in limited liability companies, tenancy in common investments, and investment contracts and promissory notes. They did so by actively and continuously soliciting investors and handling investor funds.

23. Over a period of several years, the Warner Parties engaged in a number of business transactions with the Jacobsons.

24. On several occasions, the Warner Parties purchased from the Jacobsons undivided percentage interests in specific parcels of real property. Such purchases were made pursuant to a tenant in common arrangement in connection with a real property exchange under Section 1031 of the Internal Revenue Code (26 U.S.C. §1031).

25. Through the years, the Warner Parties also made various loans to the Jacobsons (at least one of which loans was secured by a lien upon real property).

26. In addition, the Warner Parties made a number of equity investments in entities controlled by the Jacobsons—consisting of the purchase of equity ownership interests in certain limited liability companies, which companies were the owners of certain parcels of real property.

27. The Warner Parties have invested more than \$39 million with the Jacobsons—including through real property purchases, loans, and equity investments—which amount has not been repaid.

28. Unbeknownst to the Warner Parties, the Jacobsons engaged in a number of acts of misconduct in connection with their business dealings—including misrepresentations, fraud, and violations of securities laws. Among numerous other acts of misconduct, the Jacobsons failed to record the real property deeds evidencing the conveyance of real property interests to the Warner Parties.

29. As a result, the Warner Parties have claims against the Jacobsons for breach of contract, misrepresentation, and fraud.

30. On December 15, 2011, the SEC commenced a civil lawsuit against the Jacobsons alleging fraud and violations of securities laws (the “Receivership Action”). In connection with the Receivership Action, the Court entered orders restraining further violations of the securities

laws and freezing the assets and records of the Jacobsons. In addition, the Court appointed John Beckstead (the “Receiver”) to serve as the receiver of the Jacobson receivership estate.

31. The Receiver has begun taking actions in the Receivership Action that has a direct impact upon the Warner Parties. Such actions include commencing the process for the submission of claims against the Receivership Estate and laying the groundwork for the ultimate distribution of Receivership assets.

32. The Receiver is also taking steps to deprive certain members of the Warner Parties their tenant in common ownership interest in certain apartment properties without their consent. In the Receiver’s motion for approval of a claims procedure the Receiver stated that persons who hold a tenant in common ownership interest in real property should be treated as investors and not holders of real property interests:

Persons who hold a tenant-in-common ownership interest in real property for which the deed or other instrument creating the tenant-in-common interest was not recorded in the office of the applicable county recorder or other governing office prior to appointment of the Receiver will be treated as an Investor claimant.

[Receiver’s Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form, at 4 ¶ 2 (DN 1359).]

33. The Warner Parties have a number of objections, questions, and concerns regarding the Receiver’s Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form [Docket No. 1359] (the “Claims Procedure Motion”). The Claims Procedure Motion could have a major impact upon how and whether the Warner Entities obtain satisfaction of their claims.

34. The Warner Parties have a substantial interest in decisions regarding how the assets and properties that are subject to the receivership action are preserved and liquidated.

35. As a practical matter, the Warner Parties are situated such that any disposition in this matter will impede or impair its ability to protect its interest.

36. No other parties adequately represent the Warner Parties' interests.

WHEREFORE, the Warner Parties collectively pray for relief as follows:

- a. For repayment of all amounts due and owing the Warner Parties; and
- b. For such other relief as the Court deems just and proper.

Dated this 5th day of March, 2014.

CALLISTER NEBEKER & MCCULLOUGH

By: /s/ James D. Gilson
James D. Gilson
Zachary T. Shields
Marc L. Turman
Attorneys for the Warner Parties

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing **AMENDED COMPLAINT IN INTERVENTION** to be delivered via ECF notification to all counsel of record in this matter (Civil No. 2:11-cv-01165), and to the following parties by U.S. Mail, on this 5th day of March, 2014.

Greg B. Bailey
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/s/ James D. Gilson _____