

**IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

IN RE:)
)
SENTINEL TRUST COMPANY) **NO. 4781**
)
)

**ACTING COMMISSIONER-IN-POSSESSION'S AND RECEIVER'S
RESPONSE TO BATES' LIST OF ITEMS TO WHICH IT IS
REQUESTED THAT DANNY N. BATES TESTIFY**

At the April 12, 2006 hearing in this matter, Bates' counsel requested that Bates be allowed to take the stand and testify about various matters related to his Objections to the Motion to Approve the Schedule of Claim Determinations and the Methodology to Calculate Distributions. The Acting Commissioner-in-Possession ("Commissioner") and the Sentinel Trust Receiver ("Receiver") objected. The Court deferred ruling upon the request for Bates to be allowed to provide testimony until Bates provided a specific listing of the matters upon which he wished to testify, that listing being due on April 21, 2006. The Commissioner and Receiver were allowed a two (2) business day time period within which to respond to the listing of matters upon which Bates wished to testify.

On April 21, 2006, Bates served a document entitled Response to Court's Enumeration of Items for Consideration in Connection with Objections ("Bates' April 21st Response"). As part of that document, Bates set forth a listing of matters upon which he wished to testify. This filing is the Commissioner's and Receiver's response.

As set forth in Bates' April 21st Response, the "specific list of items as to which Bates was prepared [at the April 12, 2006 hearing] to testify" were six (6) items that all related to the Hilliard Lyons account and the Sun Healthcare stock holdings that were part of that account.

Bates' April 21st Response at p. 5. While it is clear that the specifically identified areas of testimony would not have been necessary or relevant,¹ the testimony being offered by Bates is in relation to a moot issue. In their April 21st submission, and without conceding any point on the issue, the Commissioner and Receiver have offered to place the proceeds from the liquidation of the Hilliard Lyons account into the Pooled Fiduciary Account -- the reason being that those funds are in excess of what the Receiver felt was needed to operate the Receivership and pursue third-party actions. Accordingly, any testimony concerning whether the Sun Healthcare/Hilliard Lyons amounts should be placed in the Pooled Fiduciary Account would be unnecessary and irrelevant because the issue is moot.

The second area listed in Bates' April 21st Response, upon which Bates wished to testify, was a general reference to Exhibit B to his April 11, 2006 Response to Commissioner's and Receiver's Reply. Bates' April 21st Response states as follows:

In addition, Mr. Bates would have [at the April 12, 2006 hearing] answered any questions about the spreadsheet calculations attached as Exhibit B of the Response. Mr. Bates stands ready to answer such questions in person or by written affidavit, should the Court deem it appropriate, useful or necessary.

Bates' April 21st Response at p. 5 (brackets added for clarity). Respectfully, a generalized reference to Exhibit B does not specifically identify what it is that Bates wanted to testify about. Moreover, the treatment of testimony about Exhibit B in Bates' April 21st Response leaves one to wonder how earnest Bates' desire to testify about Exhibit B was to begin with.

The Commissioner and Receiver assert that, since Bates, apparently, is so lukewarm about having his counsel ask him questions about Exhibit B, no evidentiary hearing is needed.

¹ The thrust of all of Bates' anticipated testimony on this point appears to be that the shares of Sun Healthcare stock were assets being held, in trust, on behalf of various defaulted bond issues. Even assuming that to be the case, Bates has admitted, in previous filings, that the Sun Healthcare stock should have been liquidated with the proceeds being used to partially pay Sentinel's unpaid expenses relating to the defaulted bonds. That, of course, would mean that the proceeds of the sale of that stock would be owed to the Sentinel Trust (and, thus, to the Sentinel Trust Receivership) in payment of those unpaid fees and expenses, and not retained in the Pooled Fiduciary Account.

