

B. SCOTT WHIPPLE (OSB # 983750)

scott@whipplelawoffice.com

WHIPPLE LAW OFFICE, LLC

1675 SW Marlow Avenue, Suite #201

Portland, OR 97225

Telephone: (503) 222-6004

WILLIAM DOUGLAS SPRAGUE (*Pro Hac Vice*)

dsprague@cov.com

COVINGTON & BURLING LLP

One Front Street

San Francisco, CA 94111-5356

Telephone: (415) 591-6000

Attorneys for Defendant

N. SCOTT GILLIS

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

**AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,
LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK; BRIAN A.
OLIVER; and N. SCOTT GILLIS,**

Defendants.

Case No. 3:16-cv-00438-PK

**DEFENDANT N. SCOTT GILLIS'
JOINDER IN MOTIONS FOR LIMITED
RELIEF FROM RECEIVERSHIP ORDER
TO PERMIT PAYMENT OF LEGAL FEES
AND EXPENSE**

**EXPEDITED HEARING AND ORAL
ARGUMENT REQUESTED**

Complaint Filed: March 10, 2016

DEFENDANT N. SCOTT GILLIS' JOINDER IN MOTION FOR
LIMITED RELIEF FROM RECEIVERSHIP OF
PAYMENT OF LEGAL FEES AND E



1600438190823000000000028

Defendant N. Scott Gillis (“Gillis”) hereby joins, in part, in Non-Party Defendants MacRitchie’s and Rice’s Motions to Intervene and for Limited Relief from Receivership Order to Permit Payment of Legal Fees and Expenses [ECF Doc. 721 and ECF Doc. 732], and Non-Party Olaf Janke’s Joinder in Motions to Intervene and for Limited Relief from Receivership Order to Permit Payment of Legal Fees and Expenses [ECF Doc. 748].¹ In doing so, Gillis, a party to the current action, moves this Court, for the purpose of seeking limited relief from the Order Appointing Receiver dated April 14, 2016 (the “Receivership Order”) to permit payment of legal fees and expenses incurred by Gillis (“Defense Costs”) in connection with the investigation and litigation commenced by the Securities and Exchange Commission (“SEC”) and a parallel investigation and related criminal proceedings initiated by the U.S. Department of Justice. Specifically, Gillis seeks an order allowing Starr Indemnity & Liability Company (“Starr”) to advance past and future Defense Costs pursuant to a Directors and Officers liability insurance policy under which Gillis, former Chief Operating Officer and Chief Financial Officer of Aequitas Holdings, LLC, is an insured person. Gillis further joins in MacRitchie’s, Rice’s, and Janke’s requests for oral argument and an expedited hearing on this motion.

LOCAL RULE 7-1(a) COMPLIANCE

Pursuant to LR 7.1(a), counsel for Gillis met and conferred in good faith through telephone conferences with counsel for the Receiver to resolve the issues set forth in this motion, but were unable to do so. Counsel for Gillis also met and conferred in good faith with counsel for Starr and the SEC regarding this motion; these parties either have no objection to the instant motion or take no position.

JOINDER IN THE MOTIONS

A. Background

On July 26, 2019, Non-Party Andrew MacRitchie (“MacRitchie”) filed a Motion to Intervene and for Limited Relief from Receivership Order to Permit Payment of Legal Fees and

¹ Gillis is already a party to the current action and therefore does not need to intervene. Gillis does not take a position on MacRitchie’s and Rice’s Motions to Intervene.

Expenses. [ECF Doc. 721]. Shortly thereafter, Non-Party Brian Rice (“Rice”) also filed a Motion to Intervene and for Limited Relief from Stay to Permit Payment of Defense Costs by Starr Indemnity & Liability Company. [ECF Doc. 732]. Recently, on August 19, Non-Party Defendant Olaf Janke (“Janke”) filed a Joinder in Motions to Intervene and for Limited Relief from Receivership Order to Permit Payment of Legal Fees and Expenses. [ECF Doc. 748] (together, the “Motions”).

In short, the Motions seek an order from the Court (1) allowing MacRitchie, Rice, and Janke to intervene, and (2) lifting the stay for the purpose of allowing Starr Insurance Company to release defense costs under the Starr Secure Excess Liability Policy (Number SISIXFL21175714) effective July 1, 2014 (the “Starr Policy”). As Gillis is a party to this action, he does not seek to intervene and takes no position on the Motions to Intervene. However, Gillis is a similarly situated insured who also wishes to preserve his right to the Starr Policy proceeds for use in his defense. As such, Gillis hereby joins in the Motions, to the extent they seek a lifting of the stay for the purpose of allowing Starr to advance defense costs under the Starr Policy.² Gillis respectfully requests that the Court enter an order granting Gillis limited relief from the Receivership Order for the purpose of allowing Starr to advance past and future Defense Costs to Gillis.

B. Motion for Limited Relief from the Receivership Order

For the same reasons set forth by Defendants Robert J. Jesenik, Brian A. Oliver, and N. Scott Gillis (collectively the “Individual Defendants”) in their motions for limited relief from the Receivership Order filed on May 12, 2016 [ECF Doc. 176], August 22, 2017 [ECF Doc. 496] and August 23, 2017 [ECF Doc. 499], and for the same reasons set forth by Non-Party Defendant Janke in his motion for limited relief from the Receivership Order filed on April 14, 2017 [ECF Doc. 397], and for the same reasons set forth in the October 23, 2017 Order [ECF Doc. 551], as well as the reasons set forth by Non-Party Defendants MacRitchie, Rice, and Janke in their motions for limited relief from the Receivership Order filed on July 26, 2019 [ECF Doc. 721], August 7, 2019

² Gillis does not join in Rice’s request, for which Rice fails to cite case law, that Rice’s Defense Costs be prioritized over those of other Insured Persons (such as the Individual Defendants who are parties to the current action).

[ECF Doc. 732], and August 19, 2019 [ECF Doc. 748], this Court should grant the motions for limited relief from the Receivership Order to allow Starr to advance reasonable Defense Costs to Gillis. Such relief would also be consistent with the Stipulations and Orders entered in May 2016 [ECF Docs. 184 & 185], April 2017 [ECF Doc. 435], August 2018 [ECF Doc. 646], and November 2018 [ECF Doc. 660] concerning limited relief from the Receivership Order that benefitted the Individual Defendants, including Gillis.

CONCLUSION

For the reasons set forth above, Gillis respectfully requests that this Court issue an order granting limited relief from the Receivership Order for the purpose of allowing Starr to advance past and future Defense Costs to Gillis.

DATED: August 21, 2019

COVINGTON & BURLING LLP

By: /s/ W. DOUGLAS SPRAGUE
W. DOUGLAS SPRAGUE (*Pro Hac Vice*)

Attorneys for Defendant N. Scott Gillis

LR 11-1(D)(2) CERTIFICATION

I hereby attest that all other signatories listed, on whose behalf this filing is submitted, concur in the filing's content and have authorized this filing.

/s/ W. DOUGLAS SPRAGUE
W. DOUGLAS SPRAGUE (*Pro Hac Vice*)