

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

THOMAS L. TAYLOR III, solely in his	§	
capacity as Court-appointed Receiver for	§	
Robert A. Helms, <i>et al.</i> ,	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 15-cv-648-LY
	§	
GRADY H. VAUGHN III,	§	
Defendant.	§	

**PLAINTIFF RECEIVER’S AND DEFENDANT VAUGHN’S
JOINT CASE MANAGEMENT / DISCOVERY PLAN PURSUANT TO RULE 26(F)**

Plaintiff Thomas L. Taylor III (the “Receiver”), solely in his capacity as Court-appointed Receiver in the civil action styled *SEC v. Helms, et al.*, Civil Action No. 1:13-cv-1036-ML (W.D. Tex. 2013) (the “Enforcement Action”), and Defendant Grady H. Vaughn III (“Vaughn”) (together the “Parties”), respectfully file this Joint Case Management/Discovery Plan (“Plan”) pursuant to Rule 26(f)(3) of the Federal Rules of Civil Procedure (“Rules”).

Counsel for the parties held their Rule 26(f) conference by telephone on October 27, 2015. Counsel discussed the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case, without success. Counsel further discussed disclosures required by Rule 26(a)(1) and potential issues with respect to preserving discoverable information. Counsel developed a proposed discovery Plan, as follows:

(A) What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made:

The Parties agree that no changes in the timing, form, or requirement for disclosures under Rule 26(a) are necessary. The Receiver served his Initial Disclosures on Vaughn on September 29, 2015. Vaughn served his Initial Disclosures on the Receiver on November 9, 2015.

(B) The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues:

The Parties agree that discovery need not be conducted in phases or otherwise limited.

The Parties agree that discovery should be completed within 9 months of the filing of this Plan. The Parties have attached a proposed scheduling order hereto.

Subjects on which discovery may be needed include: Vendetta's operations; the Vendetta and Iron Rock Offerings; Helms' and Kaelin's conduct with respect to Vendetta and related entities, including fraudulent conduct and the facts underlying their Ponzi scheme; Vaughn's knowledge and conduct with respect to the Vendetta and Iron Rock Offerings and the operations of Vendetta, Iron Rock and related entities; Upland Partners and Upland Resources; and financial records with respect to funds transferred to Vaughn, Upland Partners, and Upland Resources.

(C) any issues about disclosure, or discovery, or preservation of electronically stored information, including the form or forms in which it should be produced:

The Parties do not believe there are any issues with respect to disclosure, or discovery, or preservation of electronically stored information. Vaughn previously produced documents to the Receiver pursuant to subpoena and the Order Appointing Receiver (EA Dkt. 11). The Parties agree that discovery shall be produced in a similar form and manner in this case.

(D) Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502:

The Parties do not believe at this time that there are any issues with respect to claims of privilege or of protection. Should it become necessary, the Parties may submit a proposed protective order with respect to confidential financial information exchanged in discovery.

(E) What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed:

The Parties agree that no such changes or limitations are necessary.

(F) Any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c):

The Parties do not believe there are any issues at this time necessitating the entry of orders under Rule 26(c) or under Rule 16(c). Should it become necessary, the Parties may submit a proposed protective order with respect to confidential financial information exchanged in discovery.

With respect to a Scheduling Order to be entered under Rule 16(b), the Parties have attached a proposed order hereto.

Dated: December 18, 2015

Respectfully submitted,

THE TAYLOR LAW OFFICES, P.C.

By: /s/ Andrew M. Goforth

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COUNSEL FOR RECEIVER

CERTIFICATE OF CONFERENCE

I certify that counsel for Plaintiff Receiver and counsel for Defendant Vaughn held the Rule 26(f) conference on October 27, 2015, and subsequently have conferred and agreed as to the contents of this filing.

/s/ Andrew M. Goforth
Andrew M. Goforth

CERTIFICATE OF SERVICE

On December 18, 2015, I filed the foregoing document using the CM/ECF system for the Western District of Texas. All parties and counsel of record have been served electronically by and through the CM/ECF system.

/s/ Andrew M. Goforth
Andrew M. Goforth

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

THOMAS L. TAYLOR III, solely in his
capacity as Court-appointed Receiver for
Robert A. Helms, et al.

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CAUSE NO. A- 15 -CA- 648 -LY

GRADY H. VAUGHN III

SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following scheduling order.

IT IS ORDERED THAT:

1. The parties shall file all amended or supplemental pleadings and shall join additional parties on or before February 5, 2016.

2. All parties asserting claims for relief shall file and serve on all other parties their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before June 17, 2016. Parties resisting claims for relief shall file and serve on all other parties their designations of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before July 22, 2016.

All designations of rebuttal experts shall be filed and served on all other parties not later than 14

days of receipt of the report of the opposing expert, and the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) for such rebuttal experts, to the extent not already served, shall be served, but not filed, on all other parties not later than 14 days of receipt of the report of the opposing expert.

3. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before May 27, 2016, and each opposing party shall respond, in writing, on or before June 10, 2016. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.

4. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before June 30, 2016.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than 14 days of receipt of the written report of the expert's proposed testimony or not later than 14 days of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.**

6. The parties shall complete discovery on or before September 2, 2016. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no

intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed and served on all other parties on or before September 23, 2016 and shall be limited to 20 pages. Responses shall be filed and served on all other parties not later than 14 days of the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 14 days of the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.

The parties shall not complete the following paragraph 8. It will be completed by the Court at the initial pretrial conference to be scheduled by the Court.

8. This case is set for final pretrial conference, in chambers, on the _____ day of _____, 20_____, at _____ and _____ trial in the month of _____. 20_____. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

SIGNED this _____ day of _____, 20_____.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE

AGREED:

Andrew M. Goforth

Typed or Printed Name

R. Ritch Roberts

Typed or Printed Name

Signature

ATTORNEY FOR PLAINTIFF(S)

Signature

ATTORNEY FOR DEFENDANT(S)

Please call Janie Ney Jones if you have questions: (512) 916-5896 Ext. 8709