

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
Case No. 09-23507-CIV-GOLD/MCALILEY

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

KIRKLAND YOUNG, *et al.*,

Defendants.

**ORDER GRANTING RECEIVER'S MOTION REQUESTING APPROVAL OF  
SETTLEMENT WITH FLORIDA OFFICE OF ATTORNEY GENERAL [ECF No. 185]**

THIS CAUSE is before the Court on the Receiver's Motion for Order Approving Settlement with Florida Office of the Attorney General [ECF No. 185].

On December 17, 2009, the Florida Office of the Attorney General ("OAG") filed an action against Defendant Kirkland Young, LLC in state court for violations of Florida's Deceptive and Unfair Trade Practices Act under Case No.: 09-90945-CA-03. On October 14, 2010, the Receiver filed a motion in these proceedings providing that the Parties to the state law action have entered into a settlement agreement and requesting that I enter an order "authorizing and approving the Receiver to enter into the proposed Consent Judgment with the OAG." [ECF No. 185, p. 2]. On November 3, 2010, I issued an Order requiring supplemental authority to support the Receiver's Motion. [ECF No. 194]. Specifically, I asked the Receiver to "clarify the significance of the settlement agreement

on these proceedings and provide legal authority explaining the extent of my authority or obligation to approve the settlement agreement.” [*Id.* at 2].

On November 12, 2010, the Receiver submitted a memorandum pursuant to my Order. [**ECF No. 196**]. The Receiver has explained that he filed this motion because the Florida Attorney General instituted its action against Kirkland Young after this Court appointed the Receiver. [*Id.* at 2]. The Receiver asserts that this settlement is consistent with his obligations and responsibilities under the TRO that I issued in this case because the settlement preserves assets of the Receivership Estate and that he filed the instant motion in an “abundance of caution” to provide the Court as well as the Parties to this proceeding with an opportunity to provide comment or objection to the settlement. [*Id.* at 2-3]. To date, none of the Parties have objected to the settlement.

The Receiver further provides that I have authority to approve the settlement under the All Writs Act, 28 U.S.C. § 1651(a), which provides a district court with a “legislatively approved source of procedural instruments to achieve ‘rational ends of the law.’” See *United States v. New York Tel. Co.*, 434 U.S. 159, 172 (1977); see also *SEC v. Bancorp. Ltd.*, Case No. 80-2659, 2002 WL 1792053, at \*4-5 (S.D.N.Y. Aug. 2, 2002) (approving receiver’s settlement where it was within receiver’s discretion based on order appointing receiver).


The Court having reviewed Receiver’s Memorandum and being fully advised in the premises, it is hereby

**ORDERED and ADJUDGED:**

1. The Receiver’s Motion for Order Approving Settlement with Florida Office of the Attorney General [**ECF No. 185**] is **GRANTED**.

2. I authorize and approve the Receiver to enter into the proposed Consent Judgment with the Florida Attorney General.

**DONE AND ORDERED** in chambers, in Miami, Florida this 11 day of November, 2010.

  
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THE HONORABLE ALAN S. GOLD  
UNITED STATES DISTRICT JUDGE

cc:  
U.S. Magistrate Judge Chris M. McAliley  
All Counsel of Record