

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC,

Plaintiff,

v.

THE UPS STORE, INC.; HERRING  
VENTURES, LLC d/b/a THE UPS STORE;  
AUSTIN ELSEN; TAMMIE ELSEN;  
COURTNEY HERRING; DIANE LOFTON;  
CHANDLER WESTOVER; RAWLINGS &  
MACINNIS, PA; TAMMY VINSON; and  
JEANNIE CHISHOLM,

Defendants.

Case No. 3:19-cv-00364

Arising out of Case No. 3:18-cv-252,  
*Securities and Exchange Commission v.*  
*Arthur Lamar Adams and Madison*  
*Timber Properties, LLC*

Hon. Carlton W. Reeves, District Judge  
Hon. F. Keith Ball, Magistrate Judge

**MOTION TO SEAL**

Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (the “Receiver”), through undersigned counsel, respectfully moves pursuant to L.U.Civ. 79(e) to place under seal notices of subpoenas and subpoena service returns issued by defendant The UPS Store, Inc. Alternatively, the Receiver requests that the Court order UPS to redact investor-victims’ identifying information from its subpoena notices and service returns before filing.

The Receiver submits the accompanying non-confidential memorandum in support.

June 30, 2021

Respectfully submitted,

*/s/ Lilli Evans Bass*

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### **CERTIFICATE OF SERVICE**

I certify that I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of filing to all counsel of record.

Date: June 30, 2021

*/s/ Kristen D. Amond*

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Hon. F. Keith Ball, Magistrate Judge

**[PROPOSED] ORDER ON MOTION TO SEAL**

Before the Court is the Motion to Seal filed by Alysson Mills, in her capacity as the court-appointed receiver (the “Receiver”) for the estates of Arthur Lamar Adams and Madison Timber Properties, LLC.

Pursuant to L.U.Civ.R. 79(e), the Receiver seeks to seal notices of subpoenas and subpoena service returns issued by defendant The UPS Store, Inc. to numerous investor-victims. The Receiver requests that the notices of subpoenas and subpoena service returns be sealed from any access by the public, with CM/ECF access permitted only to the litigants’ counsel. *See* L.U.Civ.R. 79(e)(3)(B).

Defendant UPS recently issued at least 32 subpoenas, for both documents and depositions, to investor-victims. UPS's notices of subpoenas and subpoena service returns, all of which will be filed in the Court's record, contain investor-victims' names and addresses.

The Receiver designated as confidential investor-victims' identifying information under the current protective order. [*See* Doc. 90]. The protective order requires the parties to "take reasonable efforts to prevent unauthorized and inadvertent disclosure of documents as containing Confidential Information." [Doc. 90 at 4]. The Receiver objects to public disclosure of investor-victims' identifying information and, pursuant to Paragraph 6 of the protective order and Local Rule 79, requests that any subpoena notice or return be filed under seal or redacted before filing.

The Court makes the following findings:

There is good cause to seal or redact UPS's subpoena notices and service returns to the extent that they contain the recipients' identifying information. The recipients are all victims of a Ponzi scheme. The subpoenas single them out for public exposure, and that feels like a revictimization. Protective relief is warranted.

The notices of subpoenas and subpoena service returns will be sealed from any access by the public, with CM/ECF access permitted only to the litigants' counsel, until further notice. *See* L.U.Civ.R. 79(e)(3)(B), 79(e)(3)(E).

Accordingly, IT IS HEREBY ORDERED that The UPS Store, Inc. must file any notice of subpoena or subpoena service return under seal with CM/ECF access permitted only to litigants' counsel.

SO ORDERED, this the \_\_\_\_ day of \_\_\_\_\_, 2021.

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HONORABLE F. KEITH BALL  
UNITED STATES MAGISTRATE JUDGE

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Hon. Carlton W. Reeves, District Judge  
Hon. F. Keith Ball, Magistrate Judge

**NOTICE OF MOTION TO SEAL**

Pursuant to Local Rule 79(e)(3), PLEASE TAKE NOTICE that Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (the “Receiver”), through undersigned counsel, has moved pursuant to L.U.Civ. 79(e) to place under seal notices of subpoenas and subpoena service returns issued by defendant The UPS Store, Inc. Alternatively, the Receiver requests that the Court order UPS to redact investor-victims’ identifying information from its subpoena notices and service returns before filing.

June 30, 2021

Respectfully submitted,

*/s/ Lilli Evans Bass*

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**NON-CONFIDENTIAL MEMORANDUM IN SUPPORT  
OF MOTION TO SEAL**

Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (the “Receiver”), through undersigned counsel, respectfully submits this non-confidential memorandum in support of her motion to seal.

Pursuant to L.U.Civ.R. 79(e), the Receiver seeks to seal notices of subpoenas and subpoena service returns issued by defendant The UPS Store, Inc. to numerous investor-victims. The Receiver requests that the notices of subpoenas and subpoena service returns be sealed from any access by the public, with CM/ECF access permitted only to the litigants’ counsel. *See* L.U.Civ.R. 79(e)(3)(B).

Defendant UPS recently issued at least 32 subpoenas, for both documents and depositions, to investor-victims. The subpoenas call for depositions of investor-victims to occur in multiple cities over the course of 17 days, with multiple depositions taking place on each day. UPS's notices of subpoenas and subpoena service returns, all of which will be filed in the Court's record, contain investor-victims' names and addresses. The Receiver has made known throughout these proceedings that victims' identifying information should be treated as confidential under the current protective order. [*See* Doc. 90]. The protective order requires the parties to "take reasonable efforts to prevent unauthorized and inadvertent disclosure of documents as containing Confidential Information." [Doc. 90 at 4].

The Receiver objects to public disclosure of victims' identifying information and, pursuant to Paragraph 6 of the protective order and Local Rule 79, requests that any subpoena notice or return be filed under seal or redacted before filing. The Receiver would have liked to work with UPS to protect investor-victims' identities on the front end—her counsel offered to confer with UPS's counsel on the subject—but UPS will not relent. Such as it is she now requests in this motion to seal the notices and returns.

There is good cause to seal or redact UPS's subpoena notices and service returns to the extent that they contain the recipients' identifying information. The recipients are all victims of a Ponzi scheme. The subpoenas single them out for public exposure, and that feels like a revictimization. Protective relief is warranted. *Equal Emp. Opportunity Comm'n v. Faurecia Auto. Seating, LLC*, No. 4:16-cv-00199, 2017 WL 564051, at \*2 (N.D. Miss. Feb. 10, 2017) ("As a general matter, personal information (name, date of birth, social security number, address, work history, telephone number) triggers a privacy right that creates good cause for sealing.").

The Receiver and her counsel have consulted with counsel for other federal equity receivers and the consensus is how a receiver handles victims' identities necessarily depends on the case. A case-by-case analysis is consistent with Fifth Circuit law. *See Vantage Health Plan, Inc. v. Willis-Knighton Med. Ctr.*, 913 F.3d 433, 450 (5th Cir. 2019) (“[I]n this circuit the decision to seal or unseal records is to be analyzed on a case-by-case basis and the individualized decision is best left to the sound discretion of the district court.”).

In cases similar to this one, receivers have identified investor victims by numbers. *See e.g.*, Doc. 75, *Securities and Exchange Commission v. Joseph F. Forte, et al.*, No. 09-63 (E.D. Penn.) (protective order that applied in all pending receivership cases and any future ancillary actions brought by the receiver allowed receiver to identify investor-victims by numbers). The protective order in the *Forte* receivership applied in all pending receivership cases and any future ancillary actions brought by the receiver. *See, e.g.*, Doc. 13, *Marion A. Hecht v. Investor #1102 and Investor #1119*, No. 10-137 (E.D. Penn.).<sup>1</sup>

The Receiver has implored defendants' counsel in all of her cases, but especially in this one, to take the simple steps of either referring to investor-victims by numbers or redacting investor-victims' personal information. The Receiver raised this issue when she requested a protective order in December 2019.

The S.E.C. and the Receiver have separately filed a Joint Motion for Protective Order in *S.E.C. v. Adams, et al.*, No. 3:18-cv-252 (S.D. Miss.), asking that in the course of that action and the Receiver's related civil actions, including this one, the Court expressly designate investor-

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<sup>1</sup> The *Forte* receiver's report and the protective order entered in the *Forte* receivership are attached as exhibits to the S.E.C. and the Receiver's Joint Motion for Protective Order. Docs. 290-2, 290-3, *S.E.C. v. Adams, et al.*, No. 3:18-cv-252 (S.D. Miss.).

specific information as confidential and, accordingly, that investors be referenced by number and that their identifying information otherwise be redacted from any filings.

The Receiver has already assigned numbers to each investor-victim and is providing those numbers to defendants. An investor-victim's actual name is irrelevant to any defendant's defense. The Receiver does not know why it matters to the defendants that they be able to publish investor-victims' names and identifying information, unless their real reason is to embarrass investor-victims. Using a number to identify investor-victims prejudices no one, reasonably protects investor-victims' privacy, and avoids ongoing litigation of this issue.

If nothing else, UPS can redact investor-victims' names and addresses from the subpoena notices and service returns. Redaction is a small effort to avoid making a victim feel like a victim twice. Lawyers redact information that is private in nature from filings all the time. Neither redaction nor referring to victims by number in any way limits a defendant's ability to defend against the Receiver's claims. Both alternatives to sealing are less cumbersome and onerous for everyone.

The Receiver requests that notices and service returns of UPS's subpoenas be sealed until further notice. *See* L.U.Civ. R. 79(e)(3)(E). Alternatively, the Receiver requests that the Court order UPS to redact investor-victims' identifying information from its subpoena notices and service returns before filing and to issue an order requiring defendants in this case and others to identify investor-victims by number.

June 30, 2021

Respectfully submitted,

*/s/ Lilli Evans Bass*

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