UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

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

Plaintiff,

v.

BUTLER SNOW LLP et al.,

Defendants.

Case No. 3:18-cv-00866-CWR-BWR

Hon. Carlton W. Reeves

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ PC'S
MEMORANDUM OF LAW IN RESPONSE TO RECEIVER'S MOTION *IN LIMINE*

The Receiver's motion *in limine* is a thinly veiled bid to paint a distorted narrative about Brent Alexander's and Jon Seawright's convictions for conspiring with each other in connection with Alexander Seawright Timber Fund I, LLC ("ASTFI"). The Receiver wants to smear Alexander's and Seawright's characters with their convictions—which she has consistently mischaracterized[1]—while precluding the jury from hearing evidence they have compensated victims who were directly and proximately harmed by their conspiracy. The Receiver's arguments should be rejected and all evidence concerning the convictions should be excluded. In the alternative, to the extent the Court finds Alexander's and Seawright's convictions are admissible for any purpose, the jury should be permitted to hear the whole story, including that they have paid full restitution to their investors.

The Receiver's motion *in limine* also threatens to create a sideshow at trial by seeking to use statements and accusations made by non-parties in connection with a non-defendant entity,

[1] *See* ECF No. 301 (Baker Donelson's Motion *in Limine* No. 4).

Alexander Seawright Transportation, LLC, which has nothing to do with this case. That would serve only to confuse the issues, mislead the jury, and unfairly prejudice Alexander, Seawright, and Baker Donelson. Fed. R. Evid. 403. Baker Donelson has moved to exclude all of this evidence,[2] and that motion should be granted.

I. Evidence of Alexander's and Seawright's Convictions and Regulatory Sanctions Is Inadmissible.

The Receiver asserts evidence of Alexander's and Seawright's convictions and regulatory sanctions is "admissible for numerous proper purposes" under Federal Rule of Evidence 404(b). ECF No. 293 (Receiver's Memo ISO Motion *in Limine*, hereinafter "Mem.") at 4. But the Receiver's perfunctory analysis of her asserted "proper purposes" cannot withstand even minimal scrutiny. The obvious purpose is for the Receiver to parade the convictions before the jury to suggest Alexander's and Seawright's bad character and propensity to commit fraud.

First, the Receiver baldly proclaims Alexander's and Seawright's convictions prove "knowledge and intent" for the Receiver's civil conspiracy, aiding and abetting, and state-law RICO claims. Mem. 4. But Alexander and Seawright did not plead guilty to complicity in the Madison Timber Ponzi scheme, which is the conduct the Receiver is suing them for in this case. They have always denied they had knowledge of the Ponzi scheme, and not a single piece of evidence contradicts them.[3]

Neither the bills of information nor the regulatory order the Receiver seeks to admit could plausibly support a claim of complicity in the Ponzi scheme. The bills of information show

[2] *See* ECF No. 305 (Baker Donelson's Motion *in Limine* No. 6).

[3] ECF No. 223-1 Ex.1 (Statement of Undisputed Facts) ¶ 26; ECF No. 230 (Baker Donelson's Memo ISO Motion for Summary Judgment) at 21–22; ECF No. 275 (Baker Donelson's Reply Brief ISO Motion for Summary Judgment) at 11–13.

Alexander and Seawright pled guilty to conspiring *with each other*, not Lamar Adams. *See U.S. v. Seawright*, No. 3:22-cr-84, ECF No. 1 (S.D. Miss. July 13, 2022); *U.S. v. Alexander*, No. 3:23-cr-37, ECF No. 1 (S.D. Miss. Apr. 26, 2023). Those documents do not mention Lamar Adams or Madison Timber. Alexander and Seawright did not plead guilty to assisting a Ponzi scheme; they admitted to misleading their own investors in ASTFI (itself a victim of Madison Timber) about the commissions they received and the scope of their due diligence. That is not the claim the Receiver is asserting here.[4]

The regulatory order against Seawright is even farther afield. It relates to an administrative proceeding before the SEC where the regulator imposed securities-related remedial sanctions against Seawright for misrepresenting to the ASTFI investors the extent of his due diligence and about the payments he received from Madison Timber. *See In re Seawright*, Advisers Act Release No. 6509 (Dec. 20, 2023). The Receiver has confirmed she is not bringing claims for violating securities laws. *See* ECF No. 125 (Receiver's Opp'n to Baker Donelson's Motion to Conduct Investor Discovery) at 7 & n.10 ("These are not Rule 10b-5 securities fraud cases or state-law equivalents.").

Accordingly, neither the bills of information nor the regulatory order could support a claim Alexander and Seawright knew about the Ponzi scheme. Indeed, during her deposition, the Receiver admittedly could not point to any evidence to suggest Alexander and Seawright knew (or suspected) Madison Timber was a Ponzi scheme. ECF No. 301, Ex. 3 (Mills Dep.) at 161:14–162:18. The only reason the Receiver would offer this evidence is to suggest, because Alexander and Seawright pled guilty to a ***different*** conspiracy, they must have committed the conspiracy alleged in this case. That would be an impermissible propensity inference and

[4] ECF No. 275 at 11–12.

inadmissible under Fed. R. Evid 404. Importantly, evidence is excludable under Rule 404(b) "if its relevance to 'another purpose' is established *only* through the forbidden propensity inference." *United States v. Gomez*, 763 F.3d 845, 856 (7th Cir. 2014); *see also United States v. Mayhew*, 337 F. Supp. 2d 1048, 1058 (S.D. Ohio 2004) (excluding prior conviction "[b]ecause of the similarity between the prior offense and the current alleged offense, the jury, upon hearing of the prior offense, could easily be seduced into a sequence of bad character reasoning").

Second, the Receiver also repeats her mischaracterizations of Alexander's and Seawright's guilty pleas. The Receiver asserts she "showed in her opposition to Defendants' motions for summary judgment" Alexander's and Seawright's guilty pleas prove elements of several of the Receiver's claims. Mem. 4. But the Receiver's "showing" rested on the false assertion Alexander and Seawright pled guilty to conspiring with Adams:

> There is ample evidence from which the jury may find an ***agreement between Lamar Adams, Seawright, and Alexander***. There is, among other things, direct evidence of a criminal conspiracy: ***Seawright and Alexander both pleaded guilty to it***.

ECF No. 259 (Opp'n to MSJ) at 11 (emphasis added). That is simply untrue. Alexander and Seawright pled guilty to conspiring ***with each other*** (not with Adams or Madison Timber) to mislead investors about the extent of their own due diligence and about the payments they received from Madison Timber. *U.S. v. Seawright*, No. 3:22-cr-84, ECF No. 1 (S.D. Miss. July 13, 2022) ("JON DARRELL SEAWRIGHT did knowingly and intentionally conspire with TED BRENT ALEXANDER") (emphasis removed); *U.S. v. Alexander*, No. 3:23-cr-37, ECF No. 1 (S.D. Miss. Mar. 26, 2023) (same). Specifically, Alexander and Seawright pled guilty to their "failure to inspect each property" underlying each investment for the ASTFI investors while receiving "undisclosed, up-front payments," not for orchestrating a Ponzi scheme with Adams. *Id.* at 2–3.

The Receiver's eagerness to mischaracterize the guilty pleas reinforces that admitting them presents a grave risk of unfair prejudice, confusing the issues, and misleading the jury. The Receiver has the legal burden of proving the elements of her claim that Alexander and Seawright "conspired with Adams to commit the tortious acts alleged in this complaint," ECF No. 57 (Am. Compl.) ¶ 125, and that Alexander and Seawright were "aware of the fraud or wrongful conduct at the beginning of the [alleged] agreement" in 2011, ECF No. 70 (Motion to Dismiss Order) at 9 n.7 (quoting *Bradley v. Kelley Bros. Contractors, Inc*., 117 So. 3d 331, 339 (Miss. Ct. App. 2013)). It would be unfairly prejudicial to use these guilty pleas to suggest Alexander and Seawright already pled guilty to the Receiver's allegations in this case to alleviate her legal burden, particularly where they do not in fact prove the claims the Receiver is alleging. *See Davis v. Baton Rouge City Constables Off*., 2017 WL 3671857, at *1 (M.D. La. Aug. 25, 2017) (excluding evidence suggesting "there is reason to believe that a violation has taken place and therefore results in unfair prejudice to a defendant" (cleaned up)).

II. Evidence and Argument Regarding Alexander's and Seawright's Restitution Is Admissible.

The Receiver wants to have it both ways, admitting evidence of Alexander's and Seawright's convictions and sentences, but excluding the fact they have paid full restitution to the victims of those offenses. Surely if the convictions or sentences are relevant and admissible, so too is the fact Alexander and Seawright have already compensated the victims, which the jury may take into account in judging the extent of their culpability. Again, the Receiver seeks to paint a distorted picture where the jury learns only her preferred facts about the convictions—or, really, the Receiver's mischaracterizations of those convictions. Even when evidence is otherwise inadmissible, courts have discretion to admit the evidence "when it is needed to rebut a false impression that may have resulted from the opposing party's evidence." *Henderson v.*

George Washington Univ., 449 F.3d 127, 140–41 (D.C. Cir. 2006) (cleaned up); *Rodriguez v. Johndro*, 2026 WL 253636, at *5 (D. Conn. Jan. 31, 2026) (granting motion to preclude "presenting or attempting to elicit evidence of the details of the [p]laintiff's criminal offenses" but retaining discretion to admit the state trial transcript if plaintiff "open[s] the door").

In any event, the evidence is relevant to damages. Following their guilty pleas, Alexander and Seawright paid restitution of $977,044.52 to compensate victims "directly and proximately harmed" in connection with their conduct in running ASTFI. 18 U.S.C. § 3663A(b)(1), (a)(2). That restitution payment has since been collected and tendered to the Receivership Estate. *SEC v. Adams*, No. 3:18-cv-252, ECF No. 424 at 4 (S.D. Miss. Sept. 30, 2024). The Receiver cannot now recover this amount from anyone in this civil case because a plaintiff cannot "recover[] twice from the same assessment of liability." *Krieser v. Hobbs*, 166 F.3d 736, 743 (5th Cir. 1999) (applying Mississippi law). The "proper measure of damages is a factual question" and the restitution payment will help the jury in determining the damages award. *Hydro Invs., Inc. v. Trafalgar Power Inc.*, 227 F.3d 8, 18 (2d Cir. 2000).

The Receiver argues for exclusion under Mississippi Code § 99-37-17(1). But "the admissibility of evidence is procedural, not substantive, and is thus governed by federal law." *Muncie Aviation Corp. v. Party Doll Fleet, Inc.*, 519 F.2d 1178, 1182 n.7 (5th Cir. 1975). The Receiver claims that Mississippi provision is a "substantive" law,[5] Mem. 3, but that is clearly wrong: it does not "create[], define[], [or] regulate[] the rights, duties, and powers of parties." *Utterback v. Trustmark Nat'l Bank*, 2017 WL 5654732, at *5 n.10 (S.D. Miss. Mar. 30, 2017),

[5] The Receiver asserts, for the first time, this is a "diversity case." Mem. 3. That assertion is unmoored from the Amended Complaint, ECF No. 57 at 3, and this Court's recognition "[j]urisdiction in this case is predicated upon a federal question, rather than diversity," ECF No. 70 at 11.

aff'd, 716 F. App'x 241 (5th Cir. 2017). And the Receiver cites no federal case that has applied Mississippi Code § 99-37-17(1) to exclude evidence that is otherwise admissible under the Federal Rules of Evidence.

III. Evidence Relating to Alexander Seawright Transportation, LLC's Bankruptcy Is Inadmissible.

The Receiver seeks to complicate and broaden this trial, and improperly bias the jury's decision-making, by bringing collateral, irrelevant, and highly prejudicial allegations concerning Alexander Seawright Transportation, LLC, a non-defendant entity. Alexander Seawright Transportation, LLC, is a business "centered on trucking." *U.S. v. Seawright*, No. 3:21-cr-7, ECF No. 3 at 1 (S.D. Miss. Jan. 26, 2021). It is distinct from Alexander Seawright, LLC, and Alexander Seawright Timber Fund I, LLC—the defendant entities in this suit. The Receiver nonetheless identifies two pieces of evidence relating to Alexander Seawright Transportation, LLC, she seeks to admit.[6] Mem. 5–6. The first is a bankruptcy court order reported in *In re Alexander Seawright Transportation, LLC*, 2019 WL 1282951 (Bankr. S.D. Miss. Mar. 18, 2019) (the "Bankruptcy Order"), regarding Seawright's non-disclosure to the insurer for Alexander Seawright Transportation, LLC. And the second piece is the government's indictment of Mr. Seawright in connection with Alexander Seawright Transportation, LLC. *U.S. v. Seawright*, No. 3:21-cr-7, ECF No. 3 (S.D. Miss. Jan. 26, 2021) (the "Trucking Indictment").

The Receiver's motion is nothing more than an attempt to inject irrelevant and highly prejudicial evidence that would serve only to confuse the issues and mislead the jury. Baker

[6] The Receiver also gestures to some unidentified evidence relating to Alexander Seawright Transportation, LLC. Baker Donelson currently is not aware of the evidence the Receiver is purporting to offer but reserves the right to object to any later-identified evidence concerning Alexander Seawright Transportation, LLC.

Donelson has moved to exclude this same evidence in its Motion *in Limine* No.6, ECF No. 305. For the Court's convenience, we explain here why the evidence is inadmissible, and clearly so.

The Bankruptcy Order is obviously inadmissible. *First*, it is hearsay offered for its truth. "[P]rior judicial opinions are properly excluded from evidence on the bases of hearsay" and there are no applicable exception that would allow such "hearsay evidence." *Homebuilders Ass'n of Miss., Inc. v. City of Brandon, Mississippi*, 2009 WL 1788115, at *1 (S.D. Miss. June 19, 2009) (citation omitted); *see also Cardinal v. Buchnoff*, 2010 WL 3339509, at *3 (S.D. Cal. Aug. 23, 2010) (noting "judicial findings do not fall under the public records exception").

Second, the Bankruptcy Order concerning a trucking business is irrelevant to any issue in this case and its admission would be far more prejudicial than probative. Fed. R. Evid. 401, 403. The Receiver contends the identified bankruptcy court order is relevant to "alter ego liability for Alexander Seawright LLC," Mem. 5–6, presumably because that entity was associated with both the Trucking LLC and Alexander Seawright's separate timber company, ASTFI. That contention makes no sense. Alter ego liability for Alexander Seawright, LLC, requires the Receiver to prove among other things that Alexander and Seawright had such "control over" Alexander Seawright, LLC, "in respect to the transaction under attack, so that the entity, as to that transaction, had no separate mind, will or existence of its own." *Youree v. Recovery House of E. Tennessee, LLC*, 705 S.W.3d 193, 211 (Tenn. 2025). While the Bankruptcy Order appears irrelevant to an alter ego theory even with respect to the trucking company, it does not have anything to do with the timber business and could not possibly support an alter ego claim "in respect to the transaction under attack" here. *Id.* Facts concerning Alexander Seawright Transportation, LLC, in the context of a bankruptcy proceeding do not make any elements of the alter ego liability for Alexander Seawright, LLC, more or less probable. Fed. R. Evid. 401.

The Receiver also asserts the bankruptcy court order is probative of Baker Donelson's knowledge of Alexander's and Seawright's timber business. But nothing about the Bankruptcy Order says anything about Baker Donelson's knowledge about anything. It does not show the law firm had anything to do with the trucking business, much less the timber business. Tellingly, the Receiver does not cite to any other evidence showing Baker Donelson had such knowledge. *See* Mem. 5. Indeed the Receiver's counsel did not ask Baker Donelson's witnesses any questions about the Bankruptcy Order during their depositions.

The Receiver finally cites the unremarkable facts that this order was publicly reported in 2019 and that Seawright remained a shareholder until May 2021. But Baker Donelson's allegedly learning about an order concerning a trucking company in 2019—which had nothing to do with the Madison Timber Ponzi scheme—does not suggest Baker Donelson ratified Alexander and Seawright's completely separate activities concerning their timber business. Fed. R. Evid. 401. And the Receiver points to no evidence of who at Baker Donelson even learned of the Bankruptcy Order or how they may have reacted to the Order.

The Bankruptcy Indictment is equally inadmissible, and not just because it is hearsay. The government alleged "[t]he business of ALEXANDER SEAWRIGHT TRANSPORTATION LLC centered on trucking," and, "[w]ithout property damage insurance coverage, ALEXANDER SEAWRIGHT TRANSPORTATION LLC would be unable to operate its tractors and trailers." Trucking Indictment at 1. The government further alleged Mr. Seawright made an intentionally false statement to an insurance agent in connection with an insurance proposal regarding Alexander Seawright Transportation, LLC. *See id.* at 2. These allegations were never proved: Mr. Seawright agreed to plead guilty to an offense unrelated to the trucking company or its

bankruptcy, and the government dismissed the transportation indictment on December 1, 2023. *U.S. v. Seawright*, No. 3:21-cr-7, ECF Nos. 22, 23 (S.D. Miss. Dec. 21, 2023).

Unproven, collateral allegations against Seawright in connection with Alexander Seawright Transportation, LLC, have no business in this case. At the outset, "evidence of [an] indictment is generally not admissible under Rule 404." *Tajonera v. Black Elk Energy Offshore Operations, LLC*, 2016 WL 9412702, at *2 (E.D. La. May 6, 2016). And the Receiver has not identified a non-propensity use for these unproven allegations. In addition, "unproved accusation has minimal probative value, and poses a great risk of unfair prejudice" and courts in the Fifth Circuit routinely "exclude[] indictments from evidence based on Rule 403." *Walker v. Wilburn*, 2018 WL 5848857, at *4 (N.D. Tex. Nov. 8, 2018); *see also In the Matter of M&M Wireline & Offshore Servs., LLC*, 2017 WL 485985, at *9 (E.D. La. Feb. 6, 2017) ("[E]vidence of detailed factual allegations of criminal activity unrelated to the instant litigation and of charges that [defendant] was never convicted of presents a danger of unfair prejudice against [defendant.]"); *Tajonera*, 2016 WL 9412702, at *3 (finding "the probative value of the indictment is substantially outweighed by the danger of unfair prejudice"). Finally, the Bankruptcy Indictment is irrelevant and unfairly prejudicial for the same reasons as the Bankruptcy Order as discussed above.

CONCLUSION

For the foregoing reasons, Baker Donelson respectfully requests the Court deny the Receiver's motion *in limine* in its entirety.

Dated this 20th day of February, 2026

Respectfully submitted,

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ PC

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2026, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Craig D. Singer
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