

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

**REPLY IN SUPPORT OF MOTION FOR ENTRY OF PROPOSED ORDER
PARTIALLY IMPLEMENTING THE PROPOSED REDRESS PLAN**

The Defendants cite four unpersuasive and insufficient reasons to oppose the partial implementation of the Redress Plan. The FTC addresses each in turn.

First, *AMG Capital Management LLC v. FTC*, 141 S. Ct. 1341 (2022), does not bar the Court from beginning the redress process. As the FTC has argued, *AMG* does not affect this case in any meaningful sense because of the overlapping contempt motions, default judgments, and Section 19 claims. *See, e.g.*, DE 1272 & 1273. Indeed, the Court has recognized that “*AMG Capital* does not *ipso facto* render the judgments in this case void,” noting that the contempt and Telemarketing Sales Rule violations would be unaffected by *AMG* when denying the motion to vacate the default judgments. *See* DE 1278 at 1-2. As the Court recently ruled, the orders remain in full force and effect. DE 1367. Furthermore, the Court is only *partially* implementing the redress process. The Receiver is simply beginning the claims process, which will not include any distributions or liquidations absent further order from the Court. DE 1359. Moreover, there are funds that will need to be distributed regardless of the outcome of the appeal. *See, e.g.*, DE 607 (stipulated order with Atlantic International Bank Ltd., identifying \$23 million to be distributed to consumers).

Second, *FTC v. On Point Capital Partners LLC*, 17 F.4th 1066 (11th Cir. 2021), does not require either a stay or dissolution of the asset freeze or receivership. The defendants have already argued for this result—albeit without citing to *On Point*—in the Fourth Circuit and lost. *See FTC v. Andris Pukke et al.*, No. 20-2215, DE 26 (motion for summary reversal and

dissolution of the receivership pursuant to *AMG*); DE 94 (order denying motion for summary reversal); DE 46-1 (motion for stay, relying on *AMG*); DE 50 (order denying motion for stay). Even in *On Point*, the court held only that the asset freeze and receivership could not go forward because the only basis for monetary relief there was Section 13(b) of the FTC Act. 17 F.4th at 1078. But, the contempt judgments, default judgments, and Section 19 provide independent bases for relief unaffected by *AMG*. See DE 1273 & 1278. Additionally, and unlike in *On Point*, the Receivership here is partially derived from settlements that will not be affected by the appeal. DE 1366-1 at 2-3 (summarizing stipulated judgments vesting authority in the Receiver). The Defendants also fail to tell the Court that the asset freeze and receivership in *On Point* continues to this day. Like in *Sanctuary Belize*, in *On Point* there is a related contempt matter, known as *FTC v. Acquinity Interactive LLC*, No. 14-cv-60166 (S.D. Fla.), which provides an independent basis for that relief. See *FTC v. Acquinity Interactive LLC*, 2021 WL 3603594, *6-9 (Aug. 13, 2021) (upholding the asset freeze and ruling it will enter a preliminary injunction as a result of the court’s contempt powers). See also *On Point*, 17 F.4th at 1078 (“Furthermore, nothing in this opinion should be construed as commenting on or having a legal effect on the separate asset freeze in *Acquinity*. . . .”). Were this not enough, *On Point* is poorly reasoned, incomplete, and not binding on this Court. Instead, courts can and should continue to use receiverships to ensure bad actors—like the Defendants here—cannot continue to harm consumers, regardless of the availability of monetary relief, a point unaddressed in *On Point*. See *FTC v. Noland*, 2021 WL 4318466, *3 (D. Ariz. Sept. 23, 2021) (“[T]he Court agrees with the FTC that *AMG Capital* does not undermine the receivership component of the original order granting a preliminary injunction. The purpose of the receivership was not merely to preserve assets in anticipation of a future award of monetary remedies pursuant to the FTC’s § 13(b) claims—to the contrary, a key reason why the Court imposed the receivership was to prevent ongoing and future harm, by ousting the Individual Defendants from their management positions in entities that were likely functioning as pyramid schemes and making false income representations.”).

Third, there is no “prudential” reason to delay implementation. As the FTC has explained, beginning the process now will save consumers money, potentially more than a million dollars. Therefore, it would be prudent to move forward now to save money for consumer redress. The Defendants counter by falsely stating this position is inconsistent with the position the FTC took when opposing their motion to stay in the Fourth Circuit. As cited by the Defendants, the FTC stated, there, that liquidation and distribution of assets was not imminent. *FTC v. Andris Pukke et al.*, No. 20-2215 (4th Cir.), DE 48 at 10. That remains true. The partial implementation of the redress plan does not envision any assets derived from the Defendants will be liquidated or distributed absent further order of the Court. Even if the plan were fully implemented, the Court would continue to supervise the Receiver’s activities and liquidation of significant assets would require court approval. *See, e.g.*, DE 1117-1 at 2 (“Any determination the Receiver makes pursuant to this Plan is subject to this Court’s review. . . .”); DE 1117-1 at 15 (“Qualified Developer” requires “Court approval”); DE 1117-1 at 47 (“The Receiver must seek Court approval for larger sales or Transfers.”).

Fourth, the FTC is confident that the Receiver will provide accurate notices to consumers, as envisioned in the redress plan. *See, e.g.*, DE 1117-1 at 26 (describing disclosures that the Receiver will make to assist consumers in making claims decisions). Without any basis, the Defendants assert that the redress plan cannot move forward because consumers may become confused if the Defendants ultimately prevail. If the Receiver finds that certain disclosures should be made to consumers to help them make choices and otherwise be informed of the status of the litigation, it has the power to make those disclosures when providing the required notices pursuant to the redress plan. The Defendants provide no reason to believe the Receiver will fail to make all appropriate disclosures.

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In conclusion, the Defendants have not provided the Court with any reason to delay the partial implementation of the redress plan.

Dated: August 17, 2022

Respectfully Submitted,

/s/ Benjamin J. Theisman

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Certificate of Service

I hereby certify that on August 17, 2022, I caused to be served the foregoing, and all related documents, through the Court's electronic filing system ("ECF") and otherwise on the following people and entities by email at the email addresses provided:

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/s/ Benjamin J. Theisman