

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CONSUMER FINANCIAL PROTECTION BUREAU,
et al.,

Plaintiffs,

v.

Case No. 24-cv-00040-EAW-MJR

STRATFS, LLC (f/k/a STRATEGIC FINANCIAL
SOLUTIONS, LLC), et al.,

Defendants,

and

DANIEL BLUMKIN, et al.,

Relief Defendants.

**NOTICE OF EMERGENCY MOTION FOR THE RELEASE
OF FUNDS TO PAY PRE-RECEIVERSHIP PAYROLL
EXPENSES**

Moving Party:	Receiver Thomas W. McNamara.
Nature of Action:	Consumer Fraud.
Directed To:	Receivership Defendants and Plaintiffs.
Date and Time:	As soon as practicable.
Place:	Robert H. Jackson United States Courthouse, 2 Niagara Square, Buffalo, New York 14202.
Supporting Papers:	Declaration of Thomas W. McNamara, Esq. dated January 25, 2024.
Answering Papers:	To be filed on schedule as determined by the Court. The Receiver intends to file a reply.

Relief Requested: An Order authorizing the Receiver to disburse funds from the Receivership estate in the approximate aggregate amount of approximately \$700,000 (plus amounts to pay federal and state taxes) to pay certain pre-Receivership payroll expenses.

Grounds for Relief: Paragraph IX.J of this Court's *Ex Parte* Temporary Restraining Order with an Asset Freeze, Appointment of a Receiver, and Other Equitable Relief, dated January 11, 2024.

Oral Argument: Waived, unless requested by Defendants.

Dated: January 25, 2024

HODGSON RUSS LLP
Local Counsel for Receiver

By: /s/ James C. Thoman
James C. Thoman, Esq.
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
(716) 856-4000

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**DECLARATION OF THOMAS W. MCNAMARA
IN SUPPORT OF EMERGENCY MOTION FOR THE RELEASE OF
FUNDS TO PAY PRE-RECEIVERSHIP PAYROLL EXPENSES**

I, Thomas W. McNamara declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an attorney and the Court-appointed Receiver in the above-captioned action. I am fully familiar with all the facts and circumstances in this action.

2. I, as the Receiver, hereby move for authorization from the Court to release funds in order to pay certain pre-Receivership payroll expenses.

3. Under Paragraph IX.J of this Court's Temporary Restraining Order, dated January 11, 2024 (the "TRO"), the Receiver must apply to the Court for prior approval in order

to make a disbursement from the Receivership estate to pay any pre- Receivership debt or obligation of the Receivership Defendants.

4. During the period of January 9, 2024 through January 12, 2024, employees of the Receivership Defendants provided labor in accordance with the usual operations of the Receivership Defendants' debt relief business.

5. These employees were not compensated for their work during this period before the Receivership Defendants' accounts were frozen pursuant to the TRO. I have been contacted by many Receivership Defendant employees who indicate the failure to be paid will have a severe economic impact on them and their families. I therefore recommend that Receivership Defendants be allowed to pay employees who were not senior executive positions the companies.

6. I and my staff have reviewed the Receivership Defendants' ADP employment records to determine the appropriate wages to be paid. I have determined that the Receivership Estate will fund base wages or salaries (but not commissions or bonuses) for employees who were not senior executives of the Receivership Defendants, with the exception of Senior Vice President Brian Reiss, who has been instrumental in facilitating access to the Receivership Defendants' records and systems.

7. I and my staff have reviewed the payroll information of the Receivership Defendants and, to the best of our abilities, I have determined that there are approximately 817 employees of the Receivership Defendants that are to be paid pre- Receivership wages if this Emergency Motion is granted.

8. The base pay for these employees during the period from January 9, 2024 through January 12, 2024 therefore totals approximately \$700,000 before federal and state taxes.

9. Payment to these employees is necessary to ensure they are adequately compensated for labor they have already performed for the Receivership Defendants and account for their present economic situation.

10. Therefore, I respectfully request that funds in the amount of not less than \$700,000 (plus amounts necessary to pay federal and state taxes) be released from the Receivership estate in order to pay the above-described pre- Receivership payroll expenses.

11. The Receiver is not seeking authority to pay any wages or benefits to employees of the Interested Law Firms as that term is defined in the Third Party Law Firms' Motion to Intervene dated January 16, 2024 [Dkt. No. 34].

12. I contacted counsel for plaintiffs for their position on this motion; they indicated they did not object. Defense counsel Dennis Vacco was also contacted. He supports the motion to pay the employees and added he "believe[s] that the sales personnel are entitled to both their base pay and sales commissions that have become due, relating to prior sales." I cannot recommend to the Court that commissions be paid in the light of the preliminary findings set forth in the TRO.

Date: January 25, 2024

s/Thomas W. McNamara